

Indian Residential Schools

Adjudication Secretariat

Secrétariat d'adjudication

des pensionnats indiens

2009

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Secrétariat d'adjudication

des pensionnats indiens

Annual Report

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## About the Indian Residential Schools Adjudication Secretariat

The Indian Residential Schools Adjudication Secretariat is an independent, quasi-judicial tribunal providing impartial claims processing and decision-making for claims of abuse at federally-administered Indian Residential Schools.

The Adjudication Secretariat was established in 2003 to support adjudicators hearing claims in the government's Alternative Dispute Resolution (ADR) process. Upon implementation of the Indian Residential Schools Settlement Agreement in September 2007, the Secretariat began receiving claims in the Independent Assessment Process (IAP). The IAP is a non-adversarial, out of court process for claims of sexual abuse, serious physical abuse, and other wrongful acts causing serious psychological injury to the claimant. The IAP is the only option for former residential school students to resolve these claims, unless they opted out of the Settlement agreement.

The Adjudication Secretariat reports to the Chief Adjudicator, Daniel Ish, Q.C., who was appointed by the IAP Oversight Committee and confirmed by the courts.

Daniel Ish, Q.C.

**Chief Adjudicator**

Kaye E. Dunlop, Q.C.

Michel Landry

Rodger W. Linka

Delia Opekokew

Daniel Shapiro, Q.C.

**Deputy Chief Adjudicators**

Jeffery Hutchinson

**Executive Director**

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## From the Chief Adjudicator

I am pleased to present my 2009 Annual Report to the Oversight Committee, covering the second full year of the Independent Assessment Process.

There were significant achievements in 2009. Over twice as many hearings were held — 2966 in 2009 compared to 1395 the previous year — and about twice as many decisions were issued. By the end of the year, adjudicators had awarded over \$283 million in compensation, fully three times as much as had been awarded by the end of 2008. All of this has been accomplished under a steadily increasing caseload: 14,158 applications had been received by December 31, 2009, an increase of almost 4800 — about 400 a month — during the year.

At the same time, progress was not as great as would have been preferred, or as many residential school survivors have a right to expect. Last year's report committed the IAP to the ambitious target of 4000 hearings in 2009, a rate almost three times that accomplished the previous year. By mid-year, it became clear to me that the IAP could not endure such rapid growth. Claimants' counsel were unable to submit mandatory documents and attend hearings at the required rate. Canada also struggled to attend more hearings. Adjudicators were burdened with attending new hearings while trying to conclude previous ones, with greater demands for expert assessments and post-hearing conference calls. The Adjudication Secretariat continued to build the necessary capacity to meet ever-increasing demands.

*Over twice as many hearings were held—2966 in 2009 compared to 1395 the previous year—and about twice as many decisions were issued.*

Accordingly, in October, The target was lowered to 3000 hearings, which was still more than twice the number held the previous year. This report identifies the reasons and describes some of the initiatives we are taking to further increase the number of hearings being held. Our success will depend on an increase in the submission of mandatory documents as well as sustained financial and human resources support from Indian and Northern Affairs, Canada.

I am pleased to confirm that the Adjudication Secretariat's staff, the adjudicators, and I continue to be accorded the independence from government required to fulfill the adjudicative role entrusted to us by the Settlement Agreement. However, in the area of staffing, procurement, and information management, among others, the Secretariat's administrative location within Indian and Northern Affairs Canada has limited the flexibility otherwise available to administrative tribunals similar to ours. Ensuring the timely implementation of the IAP in this unique context is a daily challenge.

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The Adjudication Secretariat itself continued growing this year to meet the demands of the IAP. Twenty-two new adjudicators were retained, bringing us to a total of 98. They are supported by a staff that numbers 176 — still rather short of the projected level of 230. All of these people have been instrumental in supporting the significant achievements realized this year.

By the time this report is published, the IAP will be nearly halfway through the five-year period, specified in the Settlement Agreement, for receiving applications. Efforts will continue to add much-needed staff to the Secretariat and in the coming year our emphasis will shift away from ‘building’ the process towards ensuring it is ‘well-calibrated’ to process a high volume of claims steadily and efficiently. Unless the Adjudication Secretariat is able to overcome the challenges encountered so far in reaching the required staffing levels, the growth in hearings numbers will remain modest – perhaps no higher than 3,600 hearings this year. This will likely result in the Secretariat falling behind in scheduling claims that are ready for the hearing stage.

One priority again this year has been to ensure that rapid growth does not come at the expense of providing a quality experience for everyone participating in IAP proceedings. There are few administrative tribunals anywhere in Canada that deal with matters as sensitive and emotional as abuse at Indian Residential Schools. Every adjudicator and employee at the Indian Residential Schools Adjudication

Secretariat is cognizant of the great trust placed in us by those who have come forward to seek redress for horrendous events committed long ago. Our success will be measured not only by the sheer number of claims resolved this year, and the years ahead, but by our ability to handle all of them in accordance with our core values of fairness, consistency, impartiality, claimant-centeredness, and compassion. I will continue to work with the Oversight Committee and all stakeholders in the IAP to make this vision a reality.

*Every adjudicator and employee at the Adjudication Secretariat is cognizant of the great trust placed in us by those who have come forward to seek redress for horrendous events committed long ago*



Daniel Ish, Q.C.  
Chief Adjudicator

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## Key Results

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<i>Applications received</i>	<b>14,158</b> since Sep 19, 2007	<b>9,375</b> at Dec 31, 2008
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<i>Hearings held</i>	<b>2,966</b> in 2009	<b>1,395</b> in 2008
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<i>Decisions issued</i>	<b>2,060</b> in 2009	<b>1,076</b> in 2008
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<i>Compensation awarded</i>	<b>\$283.7m</b> since Sep 19, 2007	<b>\$92.6m</b> at Dec 31, 2008
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# Key Trends

## The volume of applications remains high

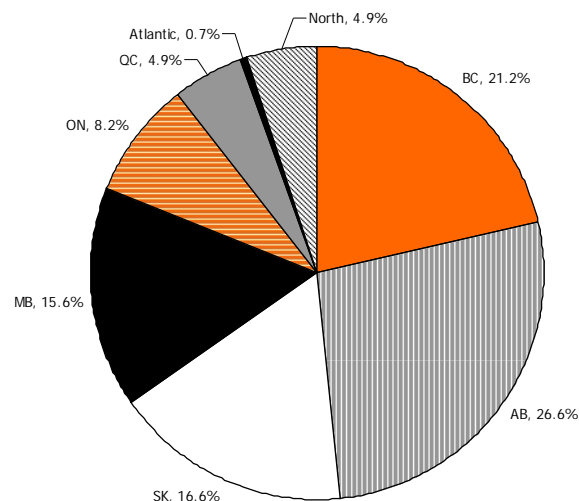
A total of 4775 applications were received in 2009, for an average of 380 applications per month.

About 89% of all applications were admitted in 2009<sup>1</sup>. Most claims refused admission involved schools not covered by the Settlement Agreement, or applicants who had already resolved an Indian Residential Schools claim in litigation or the former Alternative Dispute Resolution process. About one-quarter of claims not admitted were declined because the applicant did not describe abuse eligible for compensation in the IAP.

An applicant who is not admitted to the IAP has the right to appeal to the Chief Adjudicator, who will confirm or reverse the Secretariat's decision. By the end of December 2009, 23 appeals had been filed since inception, of which 21 were decided. In all cases, the Chief Adjudicator confirmed the decision not to admit the claim.

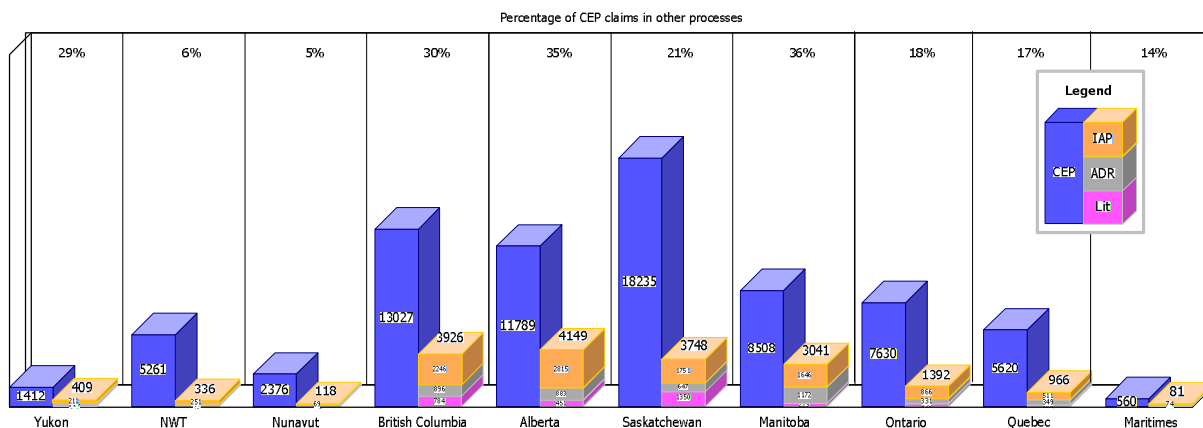
If the current rate of intake and admission continues, the Adjudication Secretariat can expect almost 4,500 additional claims during 2010. Variables outside the Secretariat's control, including the first public events from the Indian Residential Schools Truth and Reconciliation Commission, could impact the caseload.

The Adjudication Secretariat has conducted a gap analysis to examine regions where the number of IAP applications is low relative to the number of Common Experience Payment applications. This led to an outreach strategy, presented to the Oversight Committee on December 15, 2009. The strategy recommended targeting outreach to those areas that appear to be underrepresented in the IAP, and therefore would focus on the North, Saskatchewan, Ontario and Quebec. The claims comparison is provided below.



IAP claims admitted by province

<sup>1</sup> However, the overall rate of admission since September 19, 2007 is 93%.



**Comparison of paid CEP claims vs. settled litigation, ADR claims, and new IAP claims**

Note: IAP consists of all admitted new IAP, ADR transfers, and student-on-student/loss of opportunity re-openers; ADR consists of compensated ADR claims and active screened-in ADR cases; litigation consists of all resolved litigation claims. As of January 1, 2010.

## Slow document production limits the number of hearings offered

The IAP is very dependent on the ability of claimants' counsel to move claims forward. Canada, on the whole, has met its research obligation for files where the claimant has submitted the required documents. However, by December 31, 2009, only one-third of admitted claims had been offered a hearing date within nine months, a gap primarily due to the late filing of mandatory documents by claimants' counsel.

As negotiated in the Settlement Agreement, the IAP relies on medical, educational and income documents to support claims for consequential harms and loss of opportunity resulting from abuse at residential schools. This document production, which is more limited than in a court case, must take place before a hearing date is offered.

*Delays occur when document-holding agencies do not provide them in a timely manner, but also when counsel takes on more cases than they can advance.*

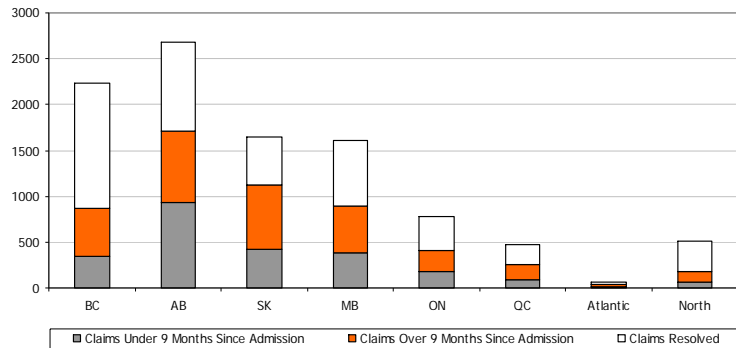
In mid-2008, the Adjudication Secretariat implemented a new process to streamline mandatory document production. Claimants' counsel now have clear responsibility for obtaining claimant documents, and submitting the entire package as part of a formal 'Request for Hearing,' certifying that all necessary documents have been submitted.

While some claimants' counsel are generally very timely with their document production, others are not. Delays occur when document-holding agencies do

not provide them in a timely manner, but also when counsel takes on more cases than they can advance.

As of December 31, 2009, 5,388 admitted claims were in Case Management awaiting full document production. Of these, 43% were admitted before April, 2009. The national average time taken for parties to submit their documents is 8.4 months. Counsel from British Columbia submitted their documents at the fastest rate, averaging 7.3 months; while counsel from Quebec and the Maritimes experienced the greatest delays and took an average of 9.2 months.

Based on document production rates so far, claimants in British Columbia can expect their hearings to occur much faster than claimants in Alberta or Saskatchewan because of faster document production.



Status of new IAP claims by region, as of December 31, 2009

It appears, however, that Alberta claims are starting to move through the hearing process in larger numbers. As well, Saskatchewan claims have on average been filed more recently than Alberta or British Columbia claims. The Secretariat anticipates a shift to having proportionately more hearings in Alberta and Saskatchewan during 2010.

The Chief Adjudicator has raised this issue with the IAP Oversight Committee, the National Administration Committee, and the supervising courts. The Chief Adjudicator will also need to address the problem of certain counsel who file applications far in excess of their ability to service them.

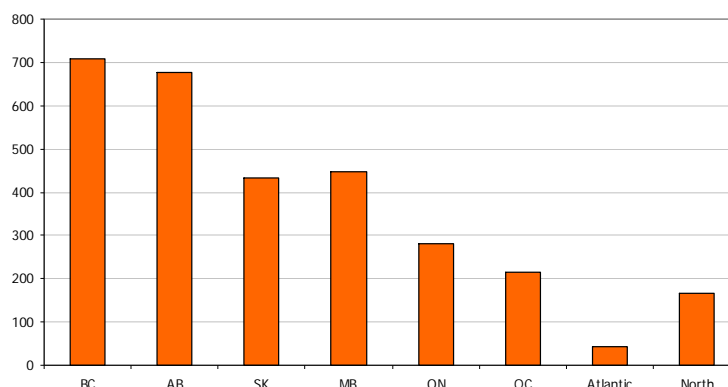
The Adjudication Secretariat has taken a number of measures to help the parties improve their document production. These initiatives include analyzing claims to determine patterns in document delays, investigating region-specific delays (for example, with provincial workers compensation and corrections agencies), and meeting with federal and provincial officials to negotiate ways to expedite IAP document requests. The Secretariat has also prepared a list of “best practices” for the parties, and regularly provides status updates to parties on their current inventory of claims.



## Hearings are being held in ever-increasing numbers

During 2009, 3,344 hearings were offered and 2,966 hearings were held.

On average, almost 250 hearings were held each month across Canada. As almost half of all claims admitted are from British Columbia and Alberta, it follows that the bulk of this year's hearings were held in those provinces.



Distribution of hearings held in 2009 by province/territory

## Increase in Decisions

In 2009, 2,060 decisions were sent to the parties, about twice as many as last year. Of these, 96% included an award from an Adjudicator. In total, over \$182.7 m was awarded during 2009.

Efforts are on-going to ensure that decisions are issued in as timely a manner as possible. With the addition of new adjudicators it will be possible to ensure that the number of hearings continues to rise while the time to produce decisions continues to decline.

Many claims involve significant post-hearing activities such as medical assessments and expert assessments. The IAP provides an essential but limited role for assessments to help prove abuse claims. Unlike a court process, where multiple assessments, competing reports, and cross-examination of experts are common, the IAP limits the use of assessments to the most essential cases. An adjudicator must order a medical assessment in physical abuse cases, to help determine whether the alleged assault caused the physical injury claimed. As well, claims for consequential harms or opportunity loss at levels 4 or 5, and for actual income loss, require an assessment by an expert chosen from a roster appointed by the Oversight Committee.

Region	Total awards	Average <sup>2</sup> days from admission to hearing	Average days from hearing to decision
BC	\$ 80.5 m	336	103
AB	\$ 60 m	352	105
SK	\$ 31.6 m	281	87
MB	\$ 50.7 m	355	96
ON	\$ 21.2 m	318	106
QC	\$17.1 m	262	103
Atlantic	\$ 1 m	181	203
North	\$ 20 m	341	97

<sup>2</sup> The average number of days from admission to hearing is based on claims where hearings have actually been held. These figures do not take into account the impact of the delay caused by the 43% of files in case management that could be offered a hearing due to document requirements.

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As important as these assessments are, they are time-consuming to obtain. The extra time required to produce a decision averages between 4 and 6 months, depending on the type of report required.

There are several reasons for these delays. In many parts of the country, there are few qualified experts willing to conduct assessments in the volume required to support the IAP. Often, the claimant will be required to travel long distances to see an expert located in a major urban centre.

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The requirement for assessments is contained in the Settlement Agreement, and could only be varied if the parties reached a consensus to amend the agreement, and the supervising courts approved. Working within the existing system, the Adjudication Secretariat has taken several measures to improve the speed and efficiency of the assessment process:

- ◆ A focused post-hearing unit was formed to coordinate and monitor activities that follow the claimant's hearing, including assessments, transcript requests, and additional hearings for witnesses and alleged perpetrators.
- ◆ Adjudication Secretariat staff have worked with the Oversight Committee and others to locate and recommend names of additional medical and expert assessors to ensure sufficient professionals are available to meet the demand.

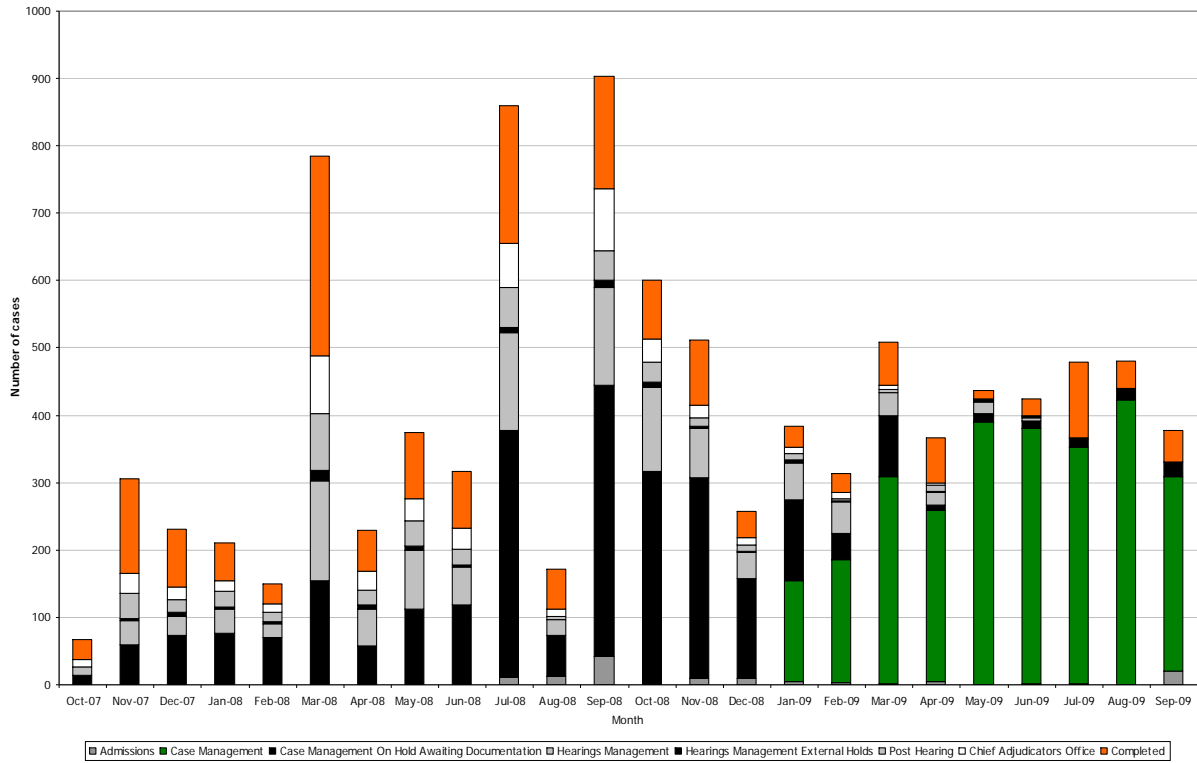
However, the Adjudication Secretariat remains constrained by government regulations on the procurement, contracting, and payment of experts – restraints that were probably not anticipated when the parties agreed to empower adjudicators to retain experts. After more than a year of work, the Adjudication Secretariat is continuing to negotiate a framework to allow more of this work to be done in the Chief Adjudicator's office, with less dependence on Indian and Northern Affairs Canada. The Secretariat is optimistic that the framework will be finalized in early 2010.

## **The aging caseload is of concern**

An important indicator of claimant satisfaction with the Independent Assessment Process is the speed with which their claim can be resolved. Many claimants are elderly or in ill health, and the process of applying for the IAP can re-open old wounds and produce anxiety.

The Adjudication Secretariat closely monitors the aging of the IAP caseload in order to better understand and address sources of delay. The graph below is a visual representation of the IAP caseload, organized by the month each claim was admitted. The black sections of each bar represent claims that are on hold

for external factors — either because the claimant has not submitted documents as required, or the claimant has delayed scheduling of a hearing-ready claim. This graph excludes claims settled through negotiation.



**Stage by month of Admission, as of December 21, 2009**

Note: The black sections in the graph above represent the files that have been delayed due to outstanding document requirements or by the Schedule P Release requirement. Black sections in April 2009 and earlier represent claims that could not be offered a hearing date within 9 months of admission, primarily due to document issues.

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## Key Initiatives

Working within the overall framework provided by the Settlement Agreement, the Adjudication Secretariat made significant gains in 2009 in expediting and streamlining the flow of claims.

### Block Hearings

One of the most unique aspects of the Indian Residential Schools Independent Assessment Process is the flexibility afforded to claimants in the location of their hearing. IAP hearings are held in hundreds of locations across Canada each year, including rural and remote communities and, where necessary, hospitals and nursing homes. The Adjudication Secretariat is Canada's most mobile administrative tribunal.

It has become clear, however, that certain communities are home to large numbers of hearings each year. In order to schedule more hearings at lower cost, the Adjudication Secretariat conducted a hearing density analysis to better understand regional trends in hearing locations. For example, in Manitoba, over 80% of hearings were held in Winnipeg. Similarly, in Saskatchewan, 90% of all hearings were held in the three major urban centers in the province. Likewise, in Alberta, 70% of hearings were held in three of the top four hearing locations in the region.

In response to these findings, the Secretariat worked proactively with claimants' counsel and Canada to begin scheduling hearings in blocks of two (2) or more. As a result, by the end of the year over 325 blocks were scheduled, totalling over 1,700 hearings – over half the hearings held during the year.

*By more efficiently block-booking hearings in major centres, the Secretariat has substantially increased representatives' ability to attend more hearings per year*

Claimants will continue to have hearings at the location of their choice, as provided in the Settlement Agreement. By more efficiently block-booking hearings in major centres, the Adjudication Secretariat has substantially increased the ability of both claimant and defendant representatives to attend more hearings per year, while reducing the costs per hearings, amount of travel, and administrative burden.

### Winnipeg and Vancouver Hearing Rooms

Claimants in the Winnipeg and Vancouver areas may have their hearings in the Adjudication Secretariat's dedicated hearings rooms. The Vancouver Hearing

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Room and the Winnipeg Hearing Centre began holding hearings in September and November 2009 respectively.

For claimants, the hearing rooms provide a safe, culturally appropriate facility specially designed to nurture all aspects of the healing and reconciliation process. Work space is also provided for adjudicators who must travel regularly to the cities for hearings, and on-site support from Adjudication Secretariat staff is available.

*Hearing rooms provide a safe, culturally appropriate facility specially designed to nurture all aspects of the healing and reconciliation process*

## **Negotiated Settlements**

In addition to a full hearing with an adjudicator, the IAP also allows claims to be settled without a hearing, when the claimant and the government are able to agree on an award within the compensation rules. The Adjudication Secretariat is not directly involved in negotiated settlements, unless the parties request an adjudicator be assigned to assist.

In 2009, 352 negotiated settlements were concluded, compared to 55 in 2008. Negotiated settlements have also been useful in dealing with re-openers of previous ADR claims for loss of opportunity or student-on-student abuse, as specified in the Settlement Agreement. Working from existing transcripts and adjudicators' decisions, 206 of these re-opener claims have been resolved since September 2007 without the need to refer the matter to an adjudicator.

## **Group IAP**

Group IAP offers an opportunity for former students to advance through the IAP together with other former students. Groups admitted to the IAP can be provided contribution funding to pay for support during the process. Group IAP provides an opportunity to support former students through the process by empowering them to make choices related to their healing prior to their hearing. Financial support is available to enable eligible groups of individuals to implement their resolution healing plan. There were two organizations representing approximately 45 claimants who received contribution funding during 2009.

## **Pandemic Response Plan**

An Influenza Pandemic Response Plan (business continuity plan) was developed and communicated to staff to prepare for the H1N1 pandemic in the fall of 2009. The plan included the creation of a Pandemic Committee and national tracking of absenteeism, hearing cancellations and the prevalence of H1N1 across the

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country. Fortunately, only one hearing was cancelled in 2009 due to H1N1. The plan remains a useful preparation for any future emergency of this type.

## Vancouver 2010 Olympics scheduling measures

In 2009, the Adjudication Secretariat devised a scheduling strategy to accommodate the significant travel and logistical challenges posed by the Vancouver 2010 Olympic Winter Games. Every effort was made to ensure that claims ready for hearings in British Columbia, especially in the Vancouver area, were scheduled in January 2010 or earlier. During February 2010, only expedited hearings (for claimants at risk of dying or losing the capacity to provide testimony) will be held in Vancouver. Additional hearings were scheduled in the other provinces to utilize adjudicator capacity as much as possible.

## Short Form Decisions

One of the greatest concerns for IAP claimants is the long time between their hearing and receiving an adjudicator's decision on compensation. In many hearings, the parties agree on the levels of abuse, harm, aggravating factors, and loss of opportunity, but must still wait for a formal decision containing a detailed narrative of the evidence and a rationale for the awarding of points.

In November 2009, the Oversight Committee approved a process for Short Form Decisions, which will be available beginning January 4, 2010. This voluntary mechanism will be offered to claimants with legal counsel in the standard track of the IAP.

If the claim is eligible for a Short Form Decision and the parties agree on the key elements of the decision (including points for acts proven, consequential harm, aggravating factors and loss of opportunity), the adjudicator will prepare a Short Form Decision on the spot, which is signed by the adjudicator and the parties attending the hearing. All parties retain their rights under the IAP to have the decision reviewed by another adjudicator, as set out in the Settlement Agreement.

*For many, the recognition and receipt of a final decision as soon as possible following the hearing is of paramount importance.*

Some claimants will still want to receive a full decision with a detailed narrative of the evidence and the rationale supporting the compensation decision, for memorialisation and other reasons. This option will remain available for all claimants. However, for many, the recognition and receipt of a final decision as soon as possible following the hearing is of paramount importance. The goal of the Short Form Decision is to provide another option to claimants.

Short form decisions will be available when each of the following requirements is met:

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- ◆ the claim is in standard track;
  - ◆ the claimant is represented by legal counsel;
  - ◆ all research, and mandatory document production is complete and submitted before the hearing, and all testimony has been heard;
  - ◆ the future care plan (if any) is submitted by the end of the hearing;
  - ◆ submissions have taken place at the end of the hearing;
  - ◆ the claimant requests in writing the use of a short form decision; and
  - ◆ the representatives of the parties attending the hearing agree on the compensation levels and points, and provide written consent to a Short Form Decision.

When a Church Party chooses not to send a representative to the hearing, Canada can consent to a Short Form Decision on their behalf.

A Short Form Decision is not available if the Claimant is self-represented, an Alleged Perpetrator testifies and disputes responsibility, or in any other case where a material issue remains with respect to credibility, liability, or compensation.

The Oversight Committee plans to review the rollout and success of the Short Form Decisions at its April 2010 meeting.

## Increased capacity

The Adjudication Secretariat started 2009 with 150 employees and ended the year with 176 employees. Although this represents a 17% increase, the Secretariat still has a long way to go to reach its full staff complement of 230 employees.

The Adjudication Secretariat is required to hire staff under the *Public Service Employment Act*, a lengthy process. The Secretariat will continue to make every effort to increase staffing levels in 2010.

In part due to the difficulty in acquiring employees, the Secretariat shifted work and resources in order to meet priority demands, particularly the much higher volume of hearings. Although shifting work helped to relieve some immediate pressures, it did not get at the root of the problem: insufficient resources provided to meet the production benchmarks under the Settlement Agreement that will apply in future years<sup>3</sup>.

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<sup>3</sup> The Secretariat has been able to offer hearings to claimants as claims become "hearing ready". With the delays in document production so far, it is expected that the number of claims that become "hearing ready" may increase sharply during 2010. Current human resources in the Secretariat are insufficient to manage the workload that such a sudden increase would represent.

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A fifth Deputy Chief Adjudicator, Michel Landry, was appointed in November 2009. Mr. Landry adds to the Secretariat's French capacity and will oversee French language hearings and Francophone adjudicators.

The Secretariat had 76 actively engaged adjudicators throughout 2009. During the year, a request for proposal process was held to further increase the number of adjudicators. Interviews were completed in December 2009, and 22 successful candidates will begin conducting hearings in Spring 2010.



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## Key Challenges

These accomplishments have not been without their challenges, however. As the neutral manager of the process, the Adjudication Secretariat is dependant on the participants – particularly legal counsel representing claimants – doing their part to ensure swift resolution of claims. In addition, the Adjudication Secretariat relies on the corporate services support and financial resources provided by the government.

### Legal fee reviews are time-consuming and contentious

One unanticipated area of work arose from the decision of the supervising courts, as a condition of approving the Settlement Agreement, to require IAP adjudicators to review legal fees charged to claimants by their counsel.

There are two standards of review. In all cases, the adjudicator must obtain the retainer agreement and ensure that the fees charges do not exceed 30% of the claimant's compensation award. This 30% cap includes the 15% paid by Canada as a contribution towards legal fees, but does not include taxes or disbursements.

In addition to the mandatory review, the adjudicator may review the fees charged for "fairness and reasonableness," either at the request of the claimant or on their own initiative. To help ensure these reviews are conducted consistently and in accordance with the principles enunciated by the courts, the Chief Adjudicator issued a Guidance Paper outlining a suitable process for fee reviews.

To date, adjudicators have conducted "fairness and reasonableness" reviews in just under half the cases. When such a review is conducted, legal fees were reduced about 80% of the time.

Overall, legal fees average about 19.5% of the claimant's compensation award which, after the 15% contribution from Canada, means the average represented claimant is paying 4.5% of their award to their lawyer. In about one-quarter of all cases, legal counsel do not charge any fees to their client, instead collecting only the 15% contribution paid by Canada.

The fee review process has been contentious at times, however. Many lawyers are displeased that their retainer agreements are subject to review and that

*The Chief Adjudicator believes that the current regime for review of legal fees fairly and equitably addresses the courts' concern that class members have access to quality legal assistance at a cost commensurate to the skill and work contributed by counsel*

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adjudicators have accepted the responsibility reposed to them by the courts. An increasing number of legal counsel are exercising their right to appeal fee decisions to the Chief Adjudicator, and some are also seeking the intervention of the courts in this matter.

The Chief Adjudicator believes that the current regime for review of legal fees fairly and equitably addresses the courts' concern that class members have access to quality legal assistance at a cost commensurate to the skill and work contributed by counsel.

## **Concerns regarding counsel conduct**

While many IAP claimants benefit from the services of skilled and attentive legal counsel, there have been several reports from adjudicators and other parties involved in IAP hearings of conduct by certain counsel that falls below the standards expected of members of the Bar. Some of these instances relate to competency while others relate to ethical misconduct.

The integrity of the IAP process is jeopardized when the conduct of the few unfairly tarnishes the reputation of all legal counsel, who are essential participants in this process. The Chief Adjudicator has raised this issue with the Oversight Committee and the courts, in hopes of finding appropriate mechanisms of encouraging reasonable standards of professional and ethical behaviour.

# Projections and Plans for 2010

The Adjudication Secretariat has many plans underway to build upon 2009's progress.

## Projected volume of claims and adjudication capacity

Based on the application rates and trends observed in 2009, the Adjudication Secretariat anticipates receiving between 350 and 380 applications per month in 2010 — for an annual total of 4200 to 4560 new IAP claims.

However, capacity to process this volume of claims is not assured. Significant concern in the areas of staffing and procurement, discussed elsewhere in this report, must still be addressed. The Secretariat remains optimistic that the staffing processes currently underway will yield significant results by the end of June 2010, but it would be imprudent to commit to higher levels of throughput without the necessary resources in place.

Accordingly, the Adjudication Secretariat's current projections for 2010 estimate that it will be able to hold approximately 3,600 hearings.

The impact of this level of capacity on the caseload is illustrated in the two charts at right. Two scenarios are outlined: Figure 1 is based on 380

applications received per month (4560 total), and Figure 2 is based on 350 applications received per month (4200 total). Both scenarios are based on the assumption that 90% of the files received in 2010 will be admitted. Each chart shows the overall active caseload broken down by stages — admissions, case management, hearings management, post-hearing, and decision processing.

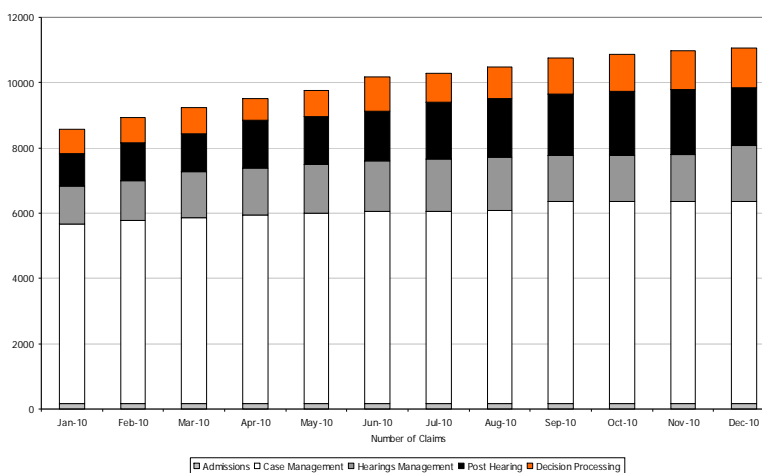


Figure 1: Projected stage of claims, by month of admission, based on 380 applications received per month

Both scenarios show that the Adjudication Secretariat will have over 6000 claims in the case management stage, awaiting document submission from the parties, by the end of 2010. There will also be 1600-1700 claims in hearings management, over 1700 claims in post hearing activities and 1200 decisions awaiting processing and distribution to the parties.

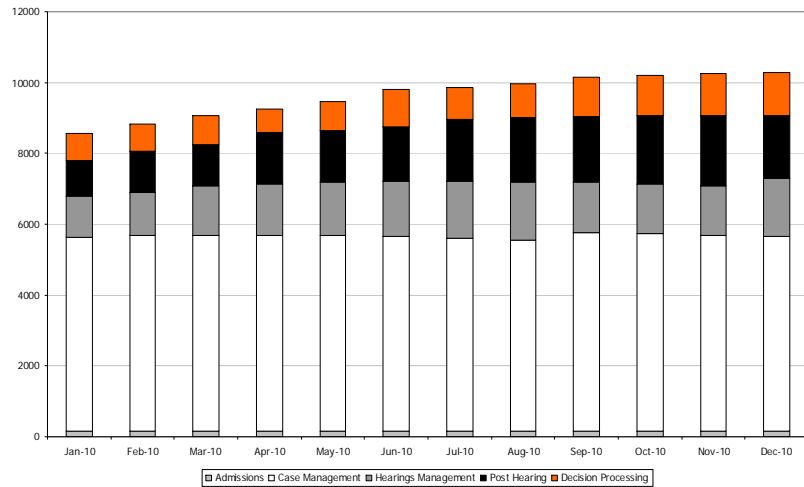


Figure 2: Projected stage of claims, by month of admission, based on 350 applications received per month

## Hearings Management Process Review

Due to the nature of its work, the Secretariat is required to process a very high volume of logistical arrangements and financial transactions in support of the hearings. Each hearing requires at least 10 transactions per hearing, including claimant and support person travel, room bookings, transcripts, expert assessments, and adjudicator fees. Overall, this translates into a total of approximately 39,000 financial transactions to support 3,000 hearings in 2009 and over 46,000 transactions to support the 3,600 hearing target for next year.

The Secretariat is working to streamline processes and systems to ensure robust and accurate financial processing in a high volume environment. To date, the Secretariat has experienced several problems resulting from the large incoming volume of invoices and is making every effort to clear an accumulated back log before the end of the fiscal year.

By the end of 2009, the Adjudication Secretariat had almost doubled its accounts payable capacity and started seeing significant improvements in the timeliness of payments. Additional resources will be shifted in early 2010 in order to clear the remaining backlog before the end of the fiscal year.

The Adjudication Secretariat is also examining any range of options to relieve the pressure in the day-to-day operations of the Hearings Management function.

The Secretariat will also undertake a financial processes review to ensure processes are adequate to meet the workload in 2010.

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## Electronic Document Interchange

A substantial amount of time and costs in processing IAP claims is attributable to the use of couriers to transfer sensitive documents. In an effort to reduce costs and minimize delays, the Secretariat will implement a secure web-based system for electronic document interchange (EDI). EDI will enable users to electronically transfer protected documents in place of courier services, mail, CDs, etc.

This initiative will be implemented in phases. Starting in early 2010, adjudicators, staff in the Chief Adjudicator's Office, and essential external service providers such as transcriptionists will be trained on the system. Upon successful deployment, this initiative will be expanded to enable all parties – especially claimants' counsel – to electronically transfer documents with the Adjudication Secretariat. The capital and on-going costs of a sFTP website will be quickly recouped by the savings in courier costs. This will bring the Adjudication Secretariat into line with many court registries, which facilitate the electronic filing and exchange of documents.

## Decisions Database

The IAP Oversight Committee has directed that a secure, searchable, online database of IAP decisions be implemented for use by adjudicators, claimant counsel, Canada's representatives and church entities to ensure equal access by all parties. Currently, only the parties participating in each claim receive decisions; since Canada is always a party, it uniquely has access to all decisions.

The database will contain selected decisions and is intended for research purposes only, since IAP decisions do not have precedential value. All personally identifying information will be removed from the decisions to ensure protect the privacy and confidentiality of all participants.

The Chief Adjudicator's Office will ensure that key decisions are included in the database, including review decisions, student on student decisions including decisions where findings of actual or constructive knowledge have been made or admitted, legal fee appeal decisions, other wrongful act decisions and actual income loss decisions.

Development of this database will begin in early 2010.

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**Adjudication Secretariat**

**Secrétariat d'adjudication**

des pensionnats indiens

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