

Indian Residential Schools Adjudication Secretariat 2012

Annual report of the Chief Adjudicator to the Independent
Assessment Process Oversight Committee

Daniel Ish, Q.C.
Chief Adjudicator

Kaye E. Dunlop, Q.C.
Catherine Knox
Michel Landry
Rodger W. Linka
Delia Opekokew, L.S.M.
Daniel Shapiro, Q.C.
Deputy Chief Adjudicators

Shelley Trevethan
Executive Director

About the Indian Residential Schools Adjudication Secretariat

The Indian Residential Schools Adjudication Secretariat (IRSAS or “the Adjudication Secretariat”) is an independent, quasi-judicial tribunal providing impartial application processing and decision-making for claims of abuse at federally-administered Indian Residential Schools.

The Adjudication Secretariat manages the Independent Assessment Process (IAP), 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. As one of the compensation programs established under the Indian Residential Schools Settlement Agreement (IRSSA), the IAP is the only option for former residential school students to resolve these claims, unless they opted out of the Settlement Agreement. The deadline to submit an application under the Independent Assessment Process was September 19, 2012. The IAP aims to bring a fair and lasting resolution to the harm caused by residential schools through a claimant-centred and neutral process. The Adjudication Secretariat has become one of Canada’s largest quasi-judicial tribunals, holding over 4,000 face-to-face hearings every year with the support of over 100 adjudicators and over 200 staff. It reports to the Chief Adjudicator, Daniel Ish, Q.C., who was appointed by the IAP Oversight Committee and confirmed by the courts.

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Message from the Chief Adjudicator

I am pleased to present my fifth Annual Report to the Oversight Committee as Chief Adjudicator. The 2012 year was especially productive for the Adjudication Secretariat, marked by great progress in advancing and implementing the IAP and by excellent operational and service performance throughout the organization. These achievements demonstrate our forward thinking and claimant-centred approach, despite the administrative and other challenges we faced during the year.

While the Adjudication Secretariat was busy on all fronts, undoubtedly the principal focus was on administering the IAP application deadline (September 19, 2012). This date, established in the Settlement Agreement, was five years from the implementation date in 2007. At the application deadline, we received far more applications than anyone anticipated: almost 7,700 applications were received in the month of September alone.

For the first time the IAP met the goal established in 2009 of holding 4,000 hearings in one year (almost 4,200 in 2012). In fact, almost 5,200 claims were resolved during the year (including adjudicators' decisions, negotiated settlements, withdrawn/ineligible claims). If this rate can be sustained, most claimant first hearings should be held by the first quarter of 2016-17, and post-hearing processes finalized by the first quarter of 2018-19.

However, I am concerned about the significant drop in the number of hearing-ready cases that occurred in the latter part of 2012, and has continued into 2013. For a claim to become hearing-ready, the Adjudication Secretariat must be satisfied that it has received all mandatory documents from legal counsel or claimant as well as Canada's research per the requirements set out in the IRSSA. Holding 4,000-4,500 hearings per year requires about 100 cases to become hearing-ready every week, taking into account a moderate rate of hearing postponements. However, between April and September 2012, the number of hearing-ready cases dropped significantly, from an average of 90 to 60 per week and remained consistently low to December 2012. Even if this rate increases in the future, it will be difficult to make up for lost ground because many parts of the IAP 'system' – adjudicators, Adjudication Secretariat staff, health support workers, and Canada's representatives, among others – are resourced to hold and attend 70 to 90 hearings per week.

The integrity of the Independent Assessment Process has been of utmost importance to me as Chief Adjudicator and considerable work was undertaken in 2012 to ensure that

the rights of claimants and other participants were protected. I was pleased to see a favourable response to the launch of a codified set of “expectations” for legal practice in the IAP, as well as stability in the legal fee review process. I continue to believe that most claimants are benefitting from quality legal representation, and we continue to advise all claimants to hire a lawyer.

This good work risks being overshadowed by a number of serious practice concerns, however. This report details the Supreme Court of British Columbia’s decision regarding Blott & Company and the appointment of former BC Supreme Court Justice Ian Pitfield as Transition Coordinator. We worked very closely with Mr. Pitfield and his staff on this transition of Blott & Company files to new legal counsel. I believe that the transition of all the files occurred as well as it possibly could have, and that this unfortunate situation was dealt with in an exemplary fashion.

I also undertook two investigations this year regarding situations that were reported to me and raised serious concerns. One investigation involved an individual in the Williams Lake, British Columbia area, who was engaged in possible extortion of claimant funds. The other investigation concerned the activities of form-filling agencies based in Winnipeg, Manitoba which were, in my view, improperly collecting inordinately high fees from claimants for services that ought to have been provided by the claimants’ lawyers. Both of these situations were brought to the attention of the supervising courts in late 2012 and I look forward to their resolution in 2013.

A previous investigation into legal counsel wrong-doing concluded early in 2012. After a year-long investigation by the Law Society of Manitoba, Winnipeg lawyer Howard Tennenhouse was disbarred in February, 2012, after entering a guilty plea to professional misconduct. The allegations included misappropriating nearly \$1 million in fees from more than 50 former students he represented in the IAP. Following the decision, we were advised by the law society that all money owed has been paid to the claimants.

This will be my last annual report as Chief Adjudicator. On February 26, 2013, I advised the Oversight Committee of my intention to retire from my position as Chief Adjudicator by mid-2013, once my successor is selected. As I told the Oversight Committee, I am stepping down for personal reasons. Serving as Chief Adjudicator has been one of the greatest privileges of my professional life. My experience in the Independent Assessment Process, and before that as an adjudicator in the Alternative Dispute Resolution process, has been richly satisfying, but I feel the time has come to allow for a successor to continue the work of leading the Independent Assessment Process to its conclusion.

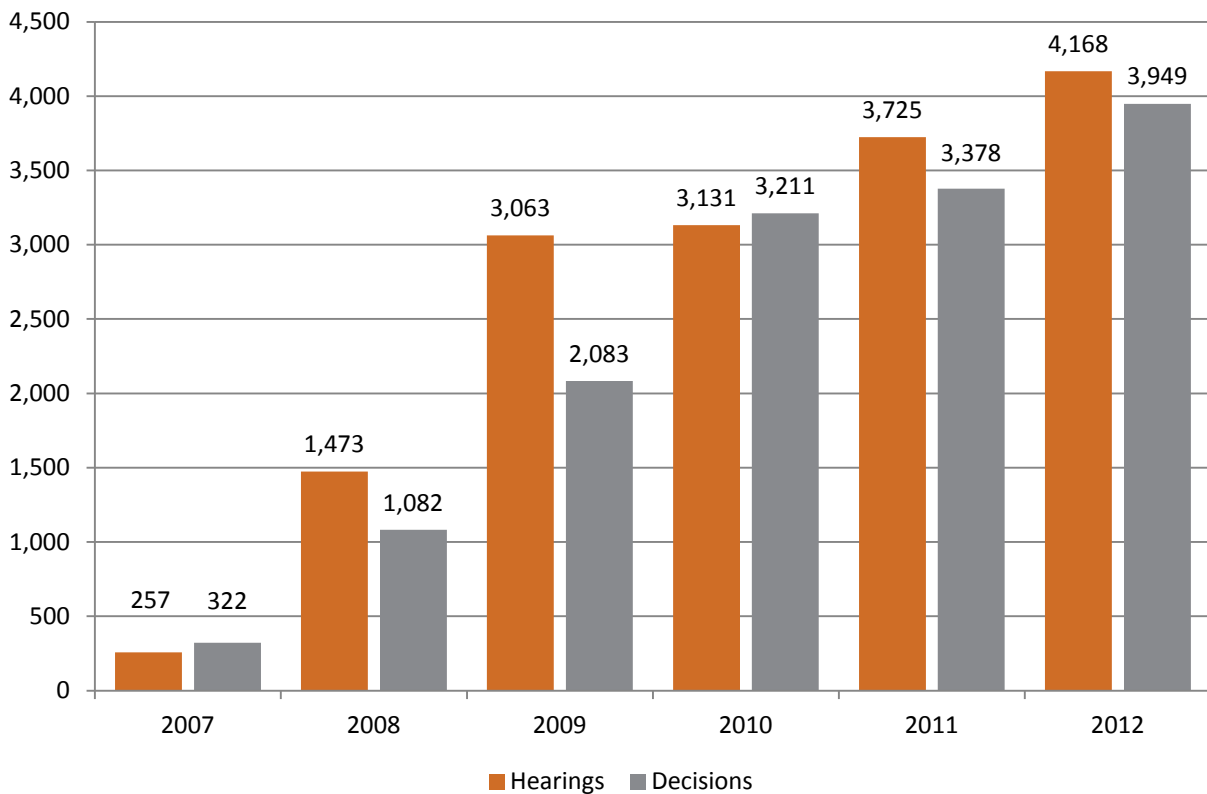
The IAP will be in good hands. We have an exceptional group of almost one hundred adjudicators, six Deputy Chief Adjudicators, and an Executive Director leading a dedicated staff of over two hundred public servants. While there will undoubtedly be further challenges ahead, I am confident that the IAP will be successful in its mission to bring some measure of closure and healing to the almost 38,000 claimants who have come forward in this process.

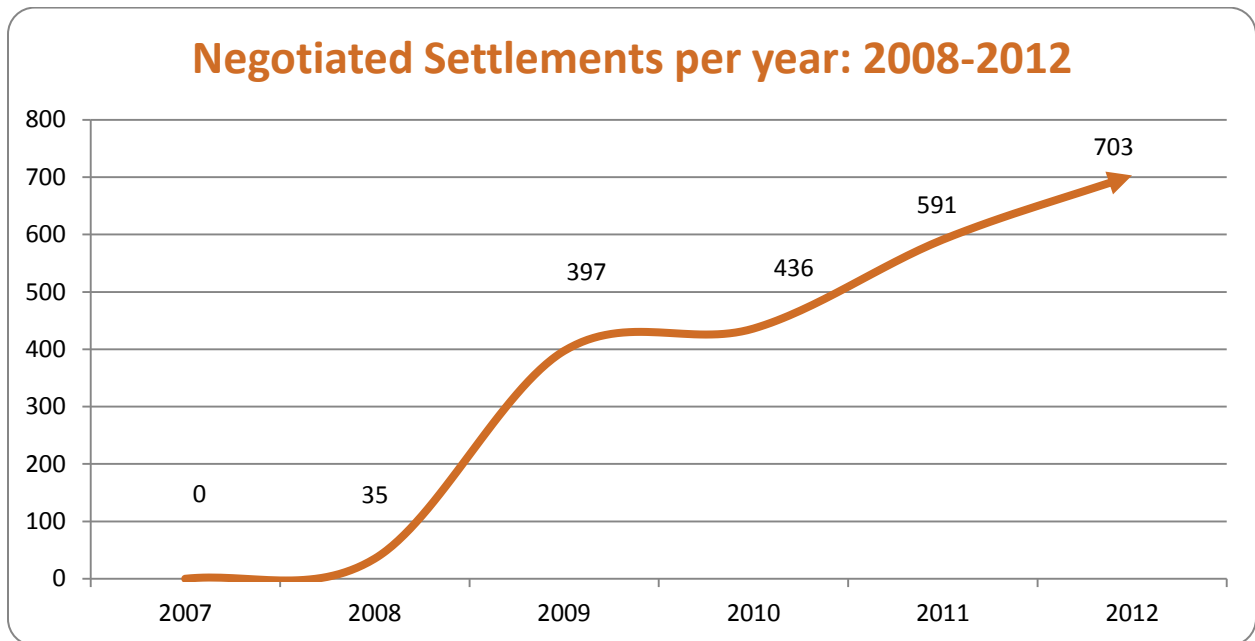
Daniel Ish, Q.C.
Chief Adjudicator

Key Performance Numbers (by calendar year)

	2007	2008	2009	2010	2011	2012	Since Implementation
Applications Received	3,833	5,444	4,746	5,156	5,529	12,909	37,617
Applications Resolved	402	1,501	3,132	4,165	4,519	5,159	18,878 50.2%
Adjudicator Decisions	322	1,082	2,083	3,211	3,378	3,949	14,025
Negotiated Settlements	0	35	397	436	591	703	2,162
Ineligible/Withdrawn	80	384	652	518	550	507	2,691

Hearings Held and Decisions Issued per year





The application deadline

Notice program

Since negotiation of the Settlement Agreement in 2006, there have been three major court-approved notice programs designed to ensure that class members (residential school survivors who lived at the schools) are aware of the Settlement Agreement and the benefits they are entitled to. A fourth phase, specifically designed to promote awareness of the IAP application deadline, was launched on March 24, 2012, and ran until the end of June 2012. As with previous phases, the campaign was designed by Hilsoft Notifications, an experienced class action notice company.

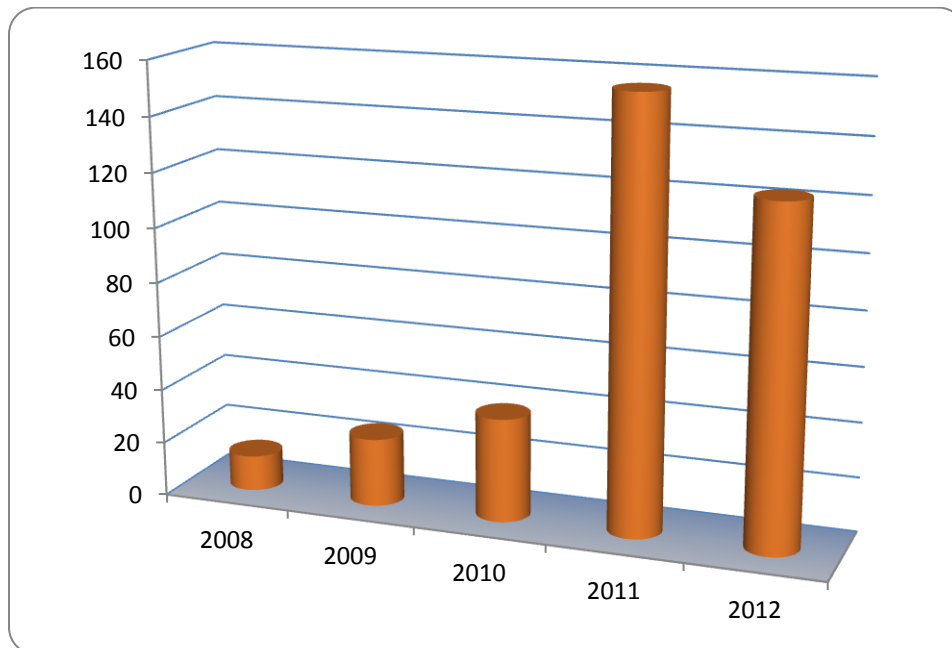
The program used three main communication tools. Advertising was placed in a wide range of Aboriginal and mainstream electronic and print media outlets. This was augmented by about 120 transit shelter advertisements in six Canadian cities. Finally, approximately 90,000 people received a letter advising them of the application deadline. These individuals were selected from lists of those who had applied for the Common Experience Payment (CEP) or had asked to have their names included in a database to receive IAP information. These names were cross-referenced with those who had already submitted IAP claims in order to minimize unnecessary mailings.

The 2012 notice program was estimated to have reached 83% of Aboriginal people aged 25 and older, an average of 4.65 times each. Combined with the previous notice programs in 2006, 2007, and 2011, over 98% of the target population was reached an average of 14 times.

Outreach

Between January 1, 2012 and the application deadline, Adjudication Secretariat staff delivered 123 information sessions to Aboriginal communities, correctional facilities, friendship centres, and homeless shelters. Over the past four years, a total of 314 IAP information sessions have been delivered across Canada as part of the Adjudication Secretariat's National Outreach Strategy to ensure access to the IAP. In addition to sessions held within Aboriginal communities, the Adjudication Secretariat has reached out to in-care facilities such as correctional facilities (federal and provincial), friendship centres, elder centres, and homeless shelters.

Outreach events per year: 2008-2012



During this time, the Adjudication Secretariat has also maintained a presence at many conferences, workshops, meetings, general assemblies, Truth and Reconciliation Commission (TRC) events, and pow-wows in order to reach out to even more residential school survivors and their families.

In 2012, staff from the Adjudication Secretariat participated in the TRC National Event held in Saskatoon, SK (June 2012), as well as the TRC regional event in Victoria, BC. Participation at TRC events has allowed Adjudication Secretariat staff to provide private one-on-one sessions with actual or potential claimants. This has enabled individuals to obtain information about the IAP or about their own claim that they may not otherwise be comfortable discussing in larger group sessions.

In addition to the outreach activities discussed above, the Adjudication Secretariat has utilized a number of communication activities in order to raise awareness of, and distribute information about, the IAP. These have included handouts and a revitalized website featuring content written in plain language. As well, in 2012, the Adjudication Secretariat produced public service announcements in four languages (English, French, Cree, and Inuktitut) that were distributed to Aboriginal community radio stations across Canada and made available on the IAP website.

After the IAP application deadline, we will refocus our outreach activities in order to continue to meet the information needs of IAP claimants, who have clearly indicated that there is a strong need for continued access to information about the IAP in general and their claims in particular. It will also be important to continue to receive information and input from claimants in order to ensure that the services provided by the Adjudication Secretariat are responding to the needs of residential school survivors and their families, and that the IAP remains claimant-centred. It will also be important to maintain strong relationships with our stakeholders and partners in coming years as we ensure successful completion of the IAP.

Application assistance program

The Settlement Agreement permits claimants to go through the IAP with or without legal counsel, and the Adjudication Secretariat accommodates the claimant's choice to proceed without legal counsel. The IAP is a complex process, and for that reason claimants are encouraged to retain qualified legal representation in the IAP. For some claimants, there was little to no access to lawyers in their communities, or they simply did not wish to hire one. For these claimants, the need to complete the IAP application form presented a barrier to entering the IAP, for reasons of community isolation, literacy levels, language barriers and health.

With this challenge in hand, the Adjudication Secretariat implemented the Application Assistance Program to provide self-represented claimants with accurate and timely information and assistance to complete the application form. All services were provided at no cost to the claimant. The guiding principle was to ensure fair access to the IAP to those former students who chose not to retain a lawyer.

The first contract was signed with the Assembly of First Nations (AFN) in September 2011 to deliver the service to former students across Canada. In April 2012, Nunavut Tunngavik Incorporated (NTI) was contracted to help self-represented claimants in the Arctic complete their IAP applications and to help improve access to the IAP. The IAP Application Assistants completed a comprehensive, mandatory training program that prepared them to provide the following support services:

- assisting claimants in filling out their IAP application forms;
- assisting with providing additional information;
- making referrals to the provincial/territorial law society if legal advice was required;
- explaining the IAP process to former students of Indian Residential Schools;
- assisting claimants in identifying available resolution health supports and counselling supports;
- facilitating access to interpretation services when necessary;
- providing personal support to claimants as they filled out their IAP application forms; and,
- helping claimants understand correspondence they received from the IAP.

When the program ended in September 2012, Application Assistants had helped a total of 526 former students apply to the IAP.

Administering the application deadline

The Adjudication Secretariat began preparing to administer the deadline almost a year in advance. In February 2012, the Adjudication Secretariat presented its procedures to the Oversight Committee, and sent a notice to all claimants' counsel in March 2012.

Our approach to the deadline was consistent with our overall approach to the Settlement Agreement: ensuring fair, transparent and impartial decision-making in a timely and sensitive way. Applications were accepted if they were postmarked by 11:59 P.M. on September 19, 2012. If applications are incomplete, the Adjudication Secretariat allows 60 days for applicants to provide additional information. If an application is not admitted, the applicant has six months to provide more information or submit an appeal to the Chief Adjudicator. These measures are designed to ensure that the admissions process concludes as swiftly as possible, while providing full and fair consideration to every applicant.

The preparation for the application deadline paid off when 7,670 new applications were received in the month of September 2012, including 1,989 on September 19th itself. By

December 31, 2012, a total of 37,617 distinct applicants had filed applications, of which 28,515 had been admitted to the IAP (with some still in the admittance stage). We anticipate that the admissions process will continue throughout 2013, as applicants provide the additional information that will enable us to determine whether their claim can be admitted.

The number of applications received will increase slightly as other residential schools have been added to the Settlement Agreement or may be added in the future. For example, in August 2012, Canada added the Mistassini Hostels in Quebec to the schools list. In early 2013, the supervising courts set the application deadline for these students at September 2, 2013.

It will most likely take until late 2013 or early 2014 to determine whether the vast numbers of applications received in the months and weeks before September 19, 2012 are admissible. On December 31, 2012, there remained a backlog of approximately 7,000 applications that still required assessment for admission into the IAP.

Ensuring a positive experience for all IAP Claimants

Engaging claimants and stakeholders

The Adjudication Secretariat is committed to ensuring a claimant-centred approach to the IAP. The Adjudication Secretariat is in the process of developing a new National Outreach Strategy for the remainder of the IAP. Over the next three years, the Adjudication Secretariat will develop information products, implement measures to enhance claimants' knowledge of the IAP, and engage stakeholders regarding claimants' needs.

The Adjudication Secretariat looks to do this by leveraging its existing relationships with organizations that provide services or interact with claimants on a daily basis by supplying these same stakeholders with the tools to help build the claimant's understanding of the IAP. We will also look to establish two-way dialogue with service providers to learn more about claimants and their families' needs throughout the course of the IAP process. This feedback will allow the Adjudication Secretariat to make further improvements in our own practices to better support claimants and their needs.

Group IAP

The purpose of the Adjudication Secretariat's Group IAP program is to promote healing by helping claimants who share a common school, community, or other attributes, to support one other in their healing journey. Group IAP provides members with access to

tools and resources to develop, enhance, and strengthen relationships between former students, their families, their communities, as well as with other Canadians, in support of healing and reconciliation. The Adjudication Secretariat facilitates healing by funding non-profit organizations to provide activities, workshops and healing ceremonies for group members.

Supported activities have included:

- traditional and cultural activities such as canoe quests, sweats, round dances, pow-wows and burning ceremonies;
- counselling and healing workshops;
- financial workshops: setting up bank accounts, budgeting, investing;
- parenting workshops: learning skills that group members or their children never learned as a result of attendance at residential school; and
- other events for group, family and community members to come together (e.g., feast) to contribute to healing.

The application process at the Adjudication Secretariat ensures fairness and transparency. All proposals are initially reviewed based on their eligibility for funding under the Group IAP and the degree to which they contribute to the priorities established in their plans to achieving the following outcomes:

- group members and their family members will provide mutual support to each other through the claims resolution process;
- appropriate mental or emotional health supports will be accessed by the claimants and by family members providing support; and
- claims will be resolved as expeditiously as possible.

This year, three Group IAP contribution agreements were approved:

- AUPE Healing Society, Campbell River, BC;
- Canadian Centre for Abuse Awareness, communities in the Regina, SK area; and
- Gabzendung (Children of Shingwauk Alumni Association), London, ON.

Support to self-represented claimants

In addition to information services to Aboriginal communities, claimants and legal counsel, and interested parties enquiring about the steps of the IAP process, the Adjudication Secretariat provides a critical supporting role to self-represented claimants so that they may participate effectively in the IAP.

The Adjudication Secretariat provides each self-represented claimant with a Claimant Support Officer as a primary contact to ensure they have accurate information to make informed decisions at each stage of the process. Claimant Support Officers work closely with self-represented claimants to prepare their files for hearing. Self-represented claimants are advised on what to expect throughout the IAP and where they may turn to get the answers they need, assistance from health supports, or encouraged to seek legal assistance. This is accomplished through a respectful approach to claimant's needs while promoting a feeling of safety.

Since inception, over 2,412 self-represented claimants have been assisted by Claimant Support Officers. In 2012, the number of active self-represented claimants doubled to slightly more than 900 claims. In 2013, we will work to manage this increased caseload without sacrificing the quality and claimant-centered approach necessary to ensure the full participation of all claimants in the IAP.

Moving claims forward

In the weeks leading up to the IAP application deadline (September 1st to the 19th, 2012) the Adjudication Secretariat received nearly 8,000 applications, for a total of 37,617 applications since Implementation. Based on experience, we estimate that it will take most of 2013 to review all the remaining applications. The total number of admitted claims will likely be up to 34,000-35,000.

Over 18,878 claims (50.2%) have been resolved to date, through an adjudicator's decision, negotiated settlement, withdrawal or ineligibility.

The Adjudication Secretariat held 4,168 hearings in 2012, approximately 12% more than in the previous year. This is a significant milestone for the Adjudication Secretariat as it marks the first time that over 4,000 hearings were held within a twelve-month period. It also indicates that the Adjudication Secretariat, with adequate resources in place, is capable of supporting the hearings required to achieve the target, set in 2011, of 4,500 hearings per year. However, these targets will only be achieved if sufficient "hearing-ready" claims are available to schedule.

While pleased with the progress in 2012, we are concerned that this high rate of claims resolution may not continue in coming years. During the year, we noted a drop in the rate at which claims became hearing-ready, which directly impacts the number of hearings that can be scheduled each year. This is discussed in further detail below.

Over 65 pilot project

In early 2012, the parties agreed to conduct a pilot project for claimants over age 65, to ensure that the IAP's oldest claimants could have their hearing sooner, and to develop ways of processing claims more quickly.

Adjudicator-led teleconferences began in June 2012, and were very successful in identifying which files could proceed to scheduling a hearing date. The use of pre-hearing teleconferences also helped motivate claimants' counsel to submit or collect documents which could help claims move more quickly. Canada also reviewed the list of claims and invited a number of claimants to negotiate a settlement without a hearing.

Pilot project hearings began in the second week of July 2012, with the last hearing taking place in December 2012. Over 150 hearings were held in total. The project was successful in identifying mechanisms and improvements to processes that could be applied to address other priorities. Work continued into 2013 to build on the pilot project experience in order to find additional mechanisms to accelerate hearings (Accelerated Hearing Process project).

Interactive File Management System

The Interactive File Management System (IFMS) is an on-line, interactive tool designed to provide improved, real-time communication between claimants' counsel and the Adjudication Secretariat on the status of individual claims. First launched in 2011 with a pilot group of law firms, the system was rolled out nationally in 2012, with 129 active accounts by law firms across the country.

In July 2012, a special IFMS module was developed to assist the Transition Coordinator, The Honourable Ian Pitfield, to work closely with the Adjudication Secretariat and the Court Monitor on the court-ordered transition of former clients of Blott & Company to successor counsel.

Development is now underway to expand the system and add features for scheduling, hearing logistics, and post-hearing file management. Plans for further development of IFMS are focused on tools to assist the Adjudication Secretariat and counsel to better communicate about claim status, as well as provide additional tools for tracking of files.

Resolving the remaining Alternative Dispute Resolution files

The Indian Residential Schools Alternative Dispute Resolution (ADR) process was launched in November 2003 as a voluntary out-of-court alternative for resolving certain claims of sexual abuse, physical abuse, and wrongful confinement. The ADR process was rolled into the Settlement Agreement upon implementation in 2007.

Approximately 7,600 claims were filed in the ADR process between November 2003 and March 2007. On implementation of the Settlement Agreement, in September 2007, 3,476 claims remained, of which 1,178 transferred to the IAP and 2,298 continued in ADR.

The final claimant hearing in the ADR process was held July 5, 2012. At the end of 2012, there remained one pending decision and one pending re-review decision which, upon their completion, would mark the end of the ADR process. Both of these decisions were received in early 2013.

Minimizing hearing postponements

Since implementation of the IAP, the high rate of postponements and cancellations of hearings has been a significant impediment to resolving more claims per year. By 2011, almost one in five hearings did not proceed as scheduled.

To address this, in December 2011 the Chief Adjudicator implemented a Guidance Paper on postponements. The new policy required that all postponements requested within 10 weeks of the hearing date be approved by the presiding adjudicator. The adjudicator is empowered to require the parties to take all possible measures to prevent the postponement, and may impose consequences if a participant fails to attend a hearing without proper cause.

The results indicate that the postponement policy is working. The overall postponement rate fell from 19% in 2011 to 12% in 2012. The policy has also proven useful in encouraging earlier postponement requests: 27.1% of all postponements were requested 10 or more weeks prior to the scheduled hearing date, compared to 18.5% prior to implementation. The Adjudication Secretariat will continue to monitor this phenomenon in order to ensure that as many hearings as possible take place as scheduled.

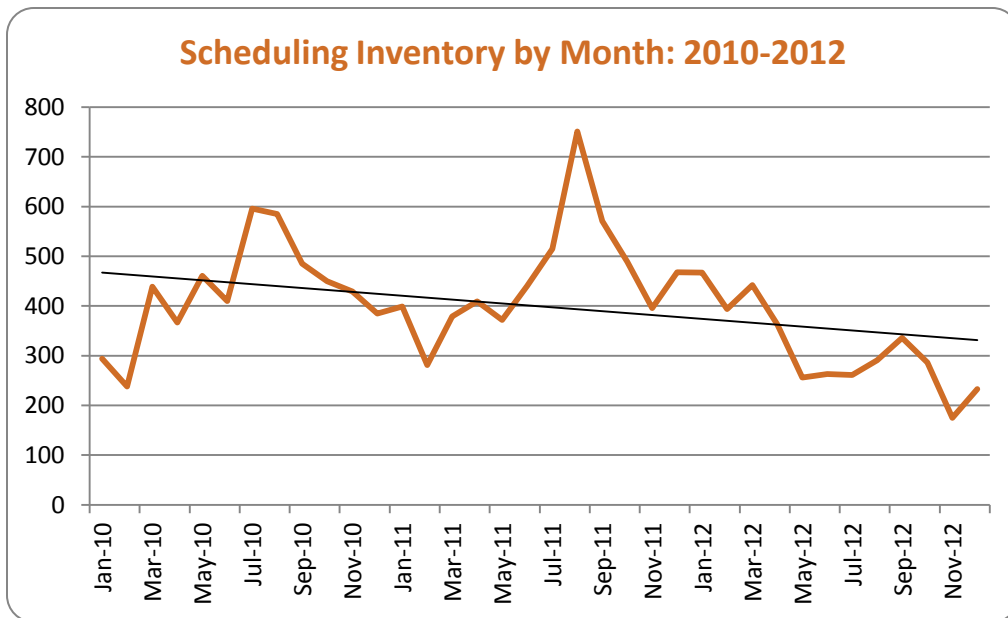
Ensuring a continued stream of hearing-ready files

Since Implementation, external factors beyond our control have influenced file preparation and movement through the IAP, and continue to do so. Before a claim can be scheduled for a hearing, the claimant or their legal counsel must submit the mandatory documents prescribed by the Settlement Agreement. If the number of hearing-ready files is low, this negatively impacts on our ability to schedule claims for hearings, as well as our ability to meet the Settlement Agreement's commitment of a hearing within 9 months of being admitted.

The inventory of hearing-ready files has been steadily declining over the last three years, and, in 2012, was at its lowest level yet. In fact, in the six months leading up to the IAP application deadline the number of hearing-ready claims dropped significantly, from an average of 90 to 60 per week. We believe that claimant counsel focused their attention on preparing application forms leading up to the deadline, rather than submitting mandatory documents for existing files, thus reducing the number of hearing-ready files that can be scheduled – and, ultimately, the number of claimants who could be heard in a timely way.

We believed that the volume of mandatory documents submitted by the parties would increase following the application deadline. However, this expected increase has, so far, failed to materialize. This will directly affect future hearing numbers.

Scheduling inventory of hearing-ready claims by month: January 2010 to December 2012:



We are still committed to a target of 4,500 first claimant hearings each year. However, the number of hearings actually held will depend on the rate of hearing-ready files as well as the impact of any projects that address the underlying issues, especially mandatory document collection. Failure to resolve these matters will have an impact on the time required to complete the IAP.

The Adjudication Secretariat will work with the parties in 2013 to undertake new initiatives to more efficiently and effectively move claimant files through to completion.

Protecting claimants

Since its inception, the Chief Adjudicator and the Adjudication Secretariat have worked diligently to cultivate a claimant-centred approach toward the important work with which we are entrusted. Regrettably, much work was required in 2012 to ensure claimants' rights and interests remain well-protected.

Blott & Company

One of the most significant events of 2012 was the court-ordered removal of Blott & Company, a Calgary-based firm that represented over 5,600 claimants, by far the largest caseload of any law firm involved in the IAP.

Following a Court-ordered investigation and six days of hearings, the supervising Court issued its decision on June 5, 2012. The Court made a number of findings:

- The practice of Blott & Co. "was essentially devoid of many of the ordinary hallmarks of the solicitor-client relationship. The relationship between lawyer and client was kept to a minimum. ... In fact, almost every aspect of the Blott IAP practice appears to have been designed to maximize file throughput with minimal overhead. ... There can be no doubt that IAP claimants were, in the system established by Blott, treated not as individual people who had in many cases suffered traumatic personal experiences at a very early age, but rather as claims, requiring little lawyer interaction."
- In many instances, clients never met their lawyers until the day of their hearing. Blott's file management system "minimizes the degree to which any individual actually manages (or, for that matter, becomes even reasonably well-acquainted with) any particular file."
- A form filling operation called Honour Walk, which was paid by Blott & Company, was "actively engaged in manipulating application forms for the IAP." Among other things, Honour Walk would alter the claimant's account of alleged abuse and harms and attach the claimant's signature to documents never signed by the claimant.
- Blott and Honour Walk held 1,159 completed but unfiled application forms. At the time of the investigation, there was no indication of notice to clients advising when, or if, these applications would be submitted. In April 2012, Blott began directing some of these clients to other lawyers, until an emergency court order prohibited any divesting of clients.
- Blott & Company had arranged 380 loans for 77 claimants from various lenders, to be paid back from the claimants' IAP awards. This method of payment, known

in law as an 'assignment' or 'direction to pay,' is prohibited by the Settlement Agreement and the Financial Administration Act. Many of these loans involved questionable 'finders fees' or other charges.

Based on these findings, the Court determined that the only appropriate option was to remove Blott & Company, Honour Walk, and their associated entities from any further participation in the Settlement Agreement. The Honourable Ian Pitfield, a retired Supreme Court of British Columbia judge, was appointed to oversee the orderly transition of Blott's clients to other lawyers.

In the weeks leading up to the court hearings and decision, the Adjudication Secretariat prepared for any eventuality. A contingency plan was developed and response team assembled with staff from all operational areas, along with communications and policy support. After the decision was issued, the Chief Adjudicator and Executive Director met swiftly with Mr. Pitfield, and appointed a senior Adjudication Secretariat employee to liaise with him.

Implementation of the Supreme Court of British Columbia decision on Blott & Company proceeded quickly. Over the course of July through September 2012, the Adjudication Secretariat worked closely with Mr. Pitfield to assign successor counsel to 3,037 claimants whose claims had not yet been heard. However, counsel advise they have been unable to locate about 50 former Blott claimants. Mr. Pitfield, the Monitor, and the Adjudication Secretariat have been working with the Resolution Health Support Program and other community-based service providers to attempt to locate these claimants.

The Blott case also provided an opportunity to address the Chief Adjudicator's role in promoting good legal practice in the IAP more generally. In supplemental reasons issued November 9, 2012, the court held that the Chief Adjudicator has the authority to implement policies and guidelines for the IAP and provide specific penalties or disciplinary measures where these are not complied with. The court also found that it was appropriate for adjudicators to ask claimants about the broad parameters of their relationship with their lawyer, such as the frequency of meetings and scope of services provided, where circumstances warranted.

Alleged extortion of settlement funds

In early 2012, the Chief Adjudicator commenced an investigation into allegations that an individual in the Williams Lake, BC, area was engaged in the extortion of settlement funds from IAP claimants. At the time, the individual was working with a Vancouver-based law firm. In Fall 2012, the Chief Adjudicator provided the information collected

during the investigation to the Court Monitor, who subsequently filed a Request for Direction to the Supervising Courts seeking a formal investigation into these matters, to be heard in early 2013.

Improper fees charged to claimants

In 2012, the Chief Adjudicator filed a request for directions with the supervising Courts to address the issue of improper fees charged to claimants by form-filling organizations, primarily in Saskatchewan and Manitoba. While many lawyers have employed non-lawyers to assist in the preparation of claim forms, the Chief Adjudicator believes that it is improper for claimants to be charged directly for these services. The preparation of claim forms is part of the service provided by the lawyer, which is subject to the legal fee review regime established by the Courts in the implementation orders. The Chief Adjudicator's application will be heard in 2013.

Sixth Deputy Chief Adjudicator

A sixth Deputy Chief Adjudicator (DCA), Catherine Knox, was appointed in October 2012. In addition to managing a group of adjudicators, the new DCA supports the Chief Adjudicator in addressing complaints related to the IAP by ensuring the protection of claimants' interests and the integrity of the IAP process as a whole.

Expectations of legal counsel

In working with legal counsel, our goal is not merely to respond to misconduct and poor practice, but to promote consistently good practice for the benefit of all claimants. Many claimants' counsel shared this goal and came together to develop guidelines for lawyers working on residential schools cases, which were adopted by the Canadian Bar Association in August 2000. While helpful, these guidelines were developed in the context of litigation and did not address issues specific to the IAP.

In August 2012, I issued his own "Expectations of Legal Practice in the IAP," to provide guidance to claimants regarding what they can expect from their lawyer, and to lawyers outlining appropriate norms of practice in the IAP. The Expectations address issues such as communicating with clients, ensuring the participation of appropriate mental health and other supports for claimants, preparing for hearings, and legal fees.

The Expectations supplement Law Society rules as well as other rules which lawyers must follow. For most IAP lawyers, the Expectations reflect their existing practice. For others, they provide useful guidance on the minimum acceptable standard of practice in the IAP. As well, Mr. Pitfield required adherence with the Expectations as a condition of transferring any Blott claimant to another lawyer.

Other measures

Protecting claimants and ensuring they are treated fairly continues to be a primary consideration in policy development. In 2012, the Oversight Committee approved a Guidance Paper on withdrawal of claims and a Chief Adjudicator's Directive on the withdrawal of legal counsel from a claim. Both directives are designed to standardize procedures and ensure that claimants' best interests are protected. In the case of withdrawal of legal counsel, the procedure helps ensure that the Adjudication Secretariat has the information required to contact the newly self-represented claimant, including any special privacy or safety needs the claimant may have. If the claimant or their counsel advises an adjudicator that they wish to withdraw the claim, the adjudicator must ensure the claimant understands the consequences of withdrawal, then write a brief decision that formally ends the claim.

Laying the foundation for completion

Priorities for 2013

The IAP has seen enormous achievements to date, but there is still much to accomplish. For 2013, the Adjudication Secretariat has set the following eight priority areas:

- Reduce the number of inactive files in the case management phase and help move them through the process.
- Identify and address claimants' needs and build awareness of claimants' rights in the IAP to support healing and reconciliation among former students, their families and the communities.
- Appropriate contracts are in place to ensure continued level of services to the IRSAS.
- Ensure the necessary finances and human resources capacity are in place to allow the IRSAS to deliver on its mandate and achieve the established targets.
- Develop strategies on sharing and disposing of file material in a manner that protects the confidentiality of sensitive personal information.
- Support the transition between the outgoing and incoming Chief Adjudicator.
- Engage staff and embed wellness as a whole-of-organization approach.
- Support the Chief Adjudicator in submitting a report to the Courts accompanied with specific proposals and methodology to process the remaining caseload in an efficient and timely manner.

Human resources

Human resource capacity at the Adjudication Secretariat continued to pose a definite challenge in 2012. At the commencement of the year, there were 209 employees

working at the Adjudication Secretariat. In order to process approximately 4,500 claims per fiscal year, the Adjudication Secretariat identified that it would require 272 employees. By the end of 2012, capacity only increased by 16 employees to 225, including casual staff and student placements. To fill the gap, we relied on temporary help services in key functions including document collection, hearing logistics and processing of decisions. We expect that we may need to double our dependency on temporary help in 2013 to meet targets, which is not ideal as it creates an additional drain on resources in order to repeatedly recruit and train short-term staff.

The federal government's 2012 budget included significant budget and staff cuts throughout the government. The IAP was excluded from these cuts, but staffing restrictions put in place by the government to help manage reductions elsewhere had a serious impact on the IAP. The most significant delay was caused by a new review and pre-approval process for all hiring. This process, which was designed to preserve vacancies to be filled by persons who are no longer required in their current jobs, materially delayed hiring for weeks and even months.

In September 2012, the Adjudication Secretariat obtained additional flexibility in staffing from the government. Work continued into 2013 on a new approach to expedite staffing processes. While this approach may not lead to an immediate influx of new staff, it should remove some major hurdles in the staffing process to allow the Adjudication Secretariat to begin the process of hiring new staff.

Increasing volume of hearing-ready files

Beginning in 2013 the IRSAS will be taking a more proactive role with claimant counsel and is looking at a number of initiatives that are in place, or being developed, with the intent of more efficiently and effectively moving claimant files to a hearing and ultimately to a decision (e.g., accelerated hearing process, incomplete file resolution process). Careful coordination of these initiatives is needed to ensure ongoing or new procedures are clearly understood, authorities are in place, and there are no unintended impacts.

Executive Director transition

After years of public service, Akivah Starkman retired at the end of 2012, following two years as Executive Director of the Adjudication Secretariat. His achievements include limiting unnecessary postponements of hearings, expediting files for claimants over 65 years of age, and increasing the rate of hearings held. In the year leading up to the IAP application deadline, Dr. Starkman focused the Adjudication Secretariat's efforts on ensuring former students, their families, and Aboriginal communities were aware of the

IAP and its processes, and that any enhancements to the Adjudication Secretariat's processes did not come at a cost to the claimant's experience and well-being.

Shelley Trevethan took over as the new Executive Director on January 7, 2013, after a search conducted by the Chief Adjudicator and the Deputy Minister of AANDC. Ms. Trevethan brings years of leadership in government and research: she has experience as Executive Director General of the Parole Board of Canada, a federal quasi-judicial tribunal, as well as executive positions at the Correctional Service of Canada and the First Nations and Inuit Health Branch of Health Canada. Her combination of experience with adjudicative processes, Aboriginal issues and restorative justice makes her an ideal candidate at this time.

Chief Adjudicator transition

I have served as Chief Adjudicator of the Adjudication Secretariat since implementation of the IAP. In February 2013, I announced that I will be stepping down once a successor is appointed. The IAP Oversight Committee, with administrative support from the Adjudication Secretariat, immediately began the process of searching for the next Chief Adjudicator. A selection committee will review applications, conduct interviews and make a recommendation to the IAP Oversight Committee on the selection of the new Chief Adjudicator. The Oversight Committee's selection must be approved by the Supervising Courts.

Supporting the transition to a new Chief Adjudicator will be a key priority for the Adjudication Secretariat in 2013.

Report to the courts

In the fall of 2013, my successor as Chief Adjudicator, with support from the Adjudication Secretariat, will provide a report to the Supervising Courts on the completion of the IAP and an analysis of the time that will be required, given the final number of admitted claims and our experience to date in processing IAP claims. The plan will also include proposals to ensure that the IAP can be completed in as timely and comprehensive a manner as possible, including the identification of any authorities that may be required in addition to those set out in the Settlement Agreement.

These proposals will include a process for dealing with claims that, despite best efforts, were not progressing and would likely not progress to a timely resolution in the IAP. Such files include the claims of deceased claimants where no estate had come forward to move the claim ahead, files where contact had been lost with the claimant for a protracted period of time, and files that for other reasons had become 'stuck' in the process with no path to resolution. The Oversight Committee and its Technical

Subcommittee were continuing to develop a process for the resolution of these incomplete files into early 2013, Court approval will be sought in late 2013 for any special authorities required to resolve these claims.

In closing

With the passing of the application deadline in September, 2012, we now have a clear picture of the work ahead of us. At nearly 38,000, the total number of claims is far higher than anyone had anticipated. Yet, over half of those claims have already been resolved. With over 4,000 hearings held in 2012, the parties have demonstrated the capability to meet the challenge posed by such a high caseload. The IAP is resolving claims at a rate that few thought possible only five years ago.

At least four significant challenges face us in 2013. First, the rate of hearing-ready files must increase in order to maintain the momentum established in 2012. Second, impediments to staffing must be resolved or the Adjudication Secretariat will be unable to sustain and increase the rate of activity. Thirdly, continued action will be required by all parties to preserve and promote the integrity of the IAP, lest it be undermined by a select few who seek to enrich themselves to the detriment of claimants. Finally, a new National Outreach Strategy will be introduced, focusing on a claimant-centred process. It will provide information on the IAP to claimants and stakeholders, expand upon relationships with partners, stakeholders and Aboriginal communities, and identify opportunities to assist in healing and reconciliation for survivors of residential schools.

As the largest class action suit in Canadian history, the IAP seeks to redress a dark chapter of Canadian history and ought to be one that all parties – and, indeed, all Canadians – can look back upon with pride and satisfaction. It is with this in mind that the Adjudication Secretariat will support the incoming Chief Adjudicator in moving the IAP towards completion in the coming years.