

MOTHERISK COMMISSION

The Honourable Judith C. Beaman,
Commissioner



COMMISSION MOTHERISK

L'honorable Judith C. Beaman,
Commissaire

June 3, 2016

Dear Executive Directors and Legal Counsel:

I write to thank you for the work you and the staff at your agencies have done to identify and organize the files that you have sent to the Motherisk Commission for our review. To date we have received files from 37 of the 47 children's aid societies in the Province of Ontario and five other societies have advised us that they have no files that fit the criteria we established for high priority files. There is one agency that has told us that they have files to send to us that we have not yet received but there are still 4 agencies that we have not received replies from.

The Motherisk Commission recognizes the great amount of extra work that is required to identify the files that are considered by us to be high priority. As the Commissioner, I am aware that the Ministry of Children and Youth Services has made some money available to assist your agencies, although I am also aware that the money provided may not be enough to pay for 100% of your extra costs. I hope that this will not stop you from continuing to identify files that fit the criteria we set for high priority files and that you will continue to send these files to us as you become aware of them.

To date we have received approximately 425 files that are considered high priority and we have been able to review and close about one-third of these. In addition, there are another 30 files where some questions have been asked of the agency and once these questions are answered, those files can be closed. There have been 7 files where we have found there to have been a substantial reliance on the Motherisk hair test results and in those cases we are working with the agencies, parents, children and others to move them forward so that the children in these cases are not caught in limbo.

There are two groups of files that we have not been receiving to date and which we believe we should be receiving. These files are those in which customary care agreements have been entered into by parents, children and others that have led to the children being removed from the care of a parent on the basis in whole or in part of Motherisk hair testing results. The Motherisk Commission is aware that some of these customary care agreements may have been created and entered into as a resolution of a court proceeding, while others may have been created and entered into prior to or instead of a court proceeding being commenced. In both of these situations, the Motherisk Commission wishes to receive these files.

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As you are aware, we have been asking for the legal files so that we are able to review exactly the same documents and see the same information as that of the judge who made the decisions in a case. In cases where a customary care agreement was used as the resolution of a court proceeding, we want the same documents.

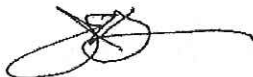
In cases where the customary care agreement was entered into prior to or instead of a court proceeding being commenced, we will need to see and review the file of the agency in order to know the basis for the customary care agreement being required and why it was agreed to by the parent(s). In addition, it may be necessary for us to contact the parent(s) and others to get information from them about how and why the customary care agreement was necessary.

We are aware that there may be a great many files that we will now have to review that deal with customary care agreements, but we believe that this is necessary in order to carry out the mandate set out in the Order in Council that established the Motherisk Commission. I believe that in situations where a child has been removed from a parent due to a substantial reliance upon Motherisk hair testing results, then that parent and that child and others deserve to have the case reviewed to see if some action should be recommended, whether that be legal, counselling or some remedy available through the ADR services of the Motherisk Commission.

We are also aware that this request for these files to be provided to the Motherisk Commission may cause you to have questions and if so, I invite you to contact Lorne Glass, Lead Counsel of the Commission, or me.

I again want to thank you for the work you all have been doing and hope that the work of the Commission has not and will not impede in any way the great work you are doing for children in this Province.

Yours very truly,



Judith C. Beaman
Commissioner