

March 29th, 2016

Dear Justice Beaman, Mr. Glass and Ms. Denov,

We, the Children in Limbo Task Force, want to thank you for meeting with us. The attached notes are meant as a follow-up to the discussions on March 17th. We have tried to summarize what we consider to be in the best interests of children and what we believe is damaging to their mental health.

We now have a much better understanding of the tasks facing the Commission, and they are staggering. We have no doubt that you want the best for the children involved in this unfortunate situation, and that you prioritize their welfare. However, we also understand that your task is to review a multitude of files and that this will take time. And not until you have done the review of the individual file, can you send a “verdict” back to the relevant agency to signal your recommendations.

It is our understanding that, while Justice Lang did recommend that case reviews occur before adoptions are finalized, the government has not issued a directive to societies or court administrators that would require that adoptions not be finalized pending the completion of a review by the Commission. We wonder if not only adoptions, but also other decisions about children’s futures have been put on hold as a precaution pending the review by the Commission of the relevant files. If that is the case, would it be feasible to alert children’s aid societies to the fact that there will be very few files where decisions were based solely on the Motherisk hair analyses; and that the welfare of these children is put at risk with the prolonged limbo and lack of permanency? Indeed, maybe the work of child welfare agencies should carry on as it would have under “normal” circumstances.

The Children in Limbo Task Force believes that the best interests of the individual child should be at the fore when decisions are being made about his or her future in the light of the Motherisk laboratory results; and we urge as a priority that delay in the decision-making process be avoided if possible.

Thank you so much for this opportunity and if there is anything that we as a group or as individuals can do to help, please let us know.

Members of the Children in Limbo Task Force:

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To the Motherisk Commissioner:
Concerns of the Children in Limbo Task Force

Who We Are:

The Children in Limbo Task Force, established in 1989 by Dr. Paul Steinhauer as a task force of the Sparrow Lake Alliance, is a voluntary, inter-sectorial and inter-disciplinary coalition of professionals working on behalf of children. The goal of the Task Force is to identify, describe and illustrate the factors and issues both clinical and court-related which contribute to children remaining “in limbo,” i.e. deprived of a permanency plan and a “forever family.”

Planning for children and families:

We are very concerned that the situation of placing adoption cases and other important decisions on hold where a Motherisk test has played a role will have serious consequences for the children so affected. Leaving them in limbo (with an uncertain future) will have a lasting and negative impact on their wellbeing.

It is our understanding that the Commissioner must be guided by the fundamental principle that the current best interests of any affected children must be taken into account (*Order in Council 4/2016* ; and the *Child and Family Services Act*, R.S.O. 1990, c.C11, subsection 37(3)).

We would like to offer the following guidelines which we hope will provide clinical direction for determining the best interests of children involved in these most unfortunate circumstances.

1. Attachment

When adoption is on hold, the process of attachment to new parental figures is interrupted and that puts the development of the child at risk.

We believe that the rights of a child overrides the rights of parents, whether biological or adoptive parents.

If a child is more attached to prospective adoptive parents than to the biological parents, adoption should be finalized, even if biological parents are cleared due to faulty drug testing. Open adoption is the preferable solution, but only if it is in the best interest of the child.

(Please see the document regarding “attachment,” page 4).

2. Haste

All possible haste to deal with these cases should apply. The uncertainty in the delay will play into the quality of the developing attachment to the prospective adoptive parents.

Although all principles of “the best interests of the child” are relevant and must be considered, the following as set out in subsection 37(3), of the *Child and Family Services Act*, R.S.O. 1990, c.C11, are particularly **relevant to encouraging haste**:

- # 5. “The importance for the child’s development of a positive relationship with a parent [assuming also foster/adoptive/kinship/biological] and a secure place as a member of a family.”
- # 10. “The effects on the child of delay in the disposition of the case.”
- # 11. “The risk that the child may suffer harm through being removed from, kept away from, returned to or allowed to remain in the care of a parent [assuming also foster/adoptive/kinship/biological].”

3. Communication

- Communication with the child about this situation (as appropriate to age and maturity) is essential.
- Honesty in this communication is mandatory, geared to the level of understanding of the child.
- Honesty is also essential in communication with the parents: foster/ adoptive/kinship/biological.
- The issues must be thoroughly discussed, and the Motherisk history facts clearly documented. The basis upon which the child was removed from the biological parents must be clearly understood.
- If the decision is to have the child remain at home with the adoptive parents even if the biological parent was deemed to be falsely appraised, then the parents should be advised to tell the truth to the child. The decision in this regard must rest with the adoptive parents.
- A finalized adoption cannot be undone. The child should know if adoptive parents agree to the halting of the adoption process. The child should be given facts by the Children’s Aid Society staff person and adoptive parents should be present for questioning and support.

4. Support

Moral and practical support to all persons affected by the Motherisk test results is essential, with the best interests of the child paramount in all deliberations.

Conclusion

Thank you for giving us the opportunity to express our concerns.

We wish you well in your work to help these children and families who were not responsible for their tragic circumstances, and whose future is now uncertain for an indeterminate length of time.

Please feel free to contact us for further questions or discussion.

Gitte Granofsky, Chair

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What is attachment and why it is important

- Attachment is an enduring **emotional bond**, uniting one person with another, manifested by various efforts to seek proximity and contact to the attachment figure, particularly when under stress.
- Attachment is a **basic human need**. The child is programmed to attach to a primary caregiver. From infancy, children attach themselves emotionally and psychologically to a primary care provider.
- The child will develop selective and secure attachment to a caregiver when the caregiver meets her/his needs in a sensitive, consistent and timely manner.
- **Trust in the adult caregiver** is the essential factor in the child forming healthy attachment.
- Secure and selective attachment is associated with good child outcome in most of the important developmental domains.
- The child's trust in her/his caregiver's ability to respond to his/her needs is the basis of the internal working models for forming and sustaining relationships as a child and as an adult. The child's experiences of having her/his needs met are internalized and form the basis of her/his **capacity to self-soothe and to develop internal regulators of mood as well as impulse control**. Secure and selective attachment is crucial for the development of a healthy sense of self-identity and internal regulators of mood and impulse control. These, in turn, help the child develop good emotional balance and **resilience to stress**.
- Secure and selective attachment has been associated with the child's ability to engage in exploratory behaviour and to learn and become confident. This leads to independence and autonomy.
- **The loss of a primary attachment figure is traumatic to any child.**
- **Interfering with the child's opportunities to develop and sustain secure and selective attachment is associated with adverse effects in cognitive, social, emotional, and moral development.** The child loses trust in the primary attachment figure and in herself.
- Multiple changes/loss of caregivers may cause the child to be attachment averse. The child will develop strategies to resist and avoid attachment.
- **Interfering with attachment is associated with attachment-disorders include eating and sleeping problems, social skill deficits, learning difficulties, attention deficits, aggressive outbursts, mood disorders, adjustment disorders, difficulties with transitions, and relationship problems.**