

**CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL**

(Class Action)
SUPERIOR COURT

No : 500-06-001022-199

ELEANOR LINDSAY

Plaintiff

vs.

ATTORNEY GENERAL OF QUÉBEC

and

**CENTRE INTÉGRÉ DE SANTÉ ET DE
SERVICES SOCIAUX DU BAS-SAINT-
LAURENT**

and

**CENTRE INTÉGRÉ UNIVERSITAIRE DE SANTÉ
ET DE SERVICES SOCIAUX DU SAGUENAY –
LAC-SAINT-JEAN**

and

**CENTRE INTÉGRÉ UNIVERSITAIRE DE SANTÉ
ET DE SERVICES SOCIAUX DE LA CAPITALE-
NATIONALE**

and

**CENTRE INTÉGRÉ UNIVERSITAIRE DE SANTÉ
ET DE SERVICES SOCIAUX DE LA MAURICIE-
ET-DU-CENTRE-DU-QUÉBEC**

and

**CENTRE INTÉGRÉ UNIVERSITAIRE DE SANTÉ
ET DE SERVICES SOCIAUX DE L'ESTRIE –
CENTRE HOSPITALIER UNIVERSITAIRE DE
SHERBROOKE**

and

**CENTRE INTÉGRÉ UNIVERSITAIRE DE SANTÉ
ET DE SERVICES SOCIAUX DE L'OUEST-DE-
L'ÎLE-DE-MONTRÉAL**

and

**CENTRE INTÉGRÉ UNIVERSITAIRE DE SANTÉ
ET DE SERVICES SOCIAUX DU CENTRE-SUD-
DE-L'ÎLE-DE-MONTRÉAL**
and

**CENTRE INTÉGRÉ DE SANTÉ ET DE
SERVICES SOCIAUX DE L'OUTAOUAIS**
and

**CENTRE INTÉGRÉ DE SANTÉ ET DE
SERVICES SOCIAUX DE L'ABITIBI-
TÉMISCAMINGUE**
and

**CENTRE INTÉGRÉ DE SANTÉ ET DE
SERVICES SOCIAUX DE LA CÔTE-NORD**
and

**CENTRE INTÉGRÉ DE SANTÉ ET DE
SERVICES SOCIAUX DE LA GASPÉSIE**
and

**CENTRE INTÉGRÉ DE SANTÉ ET DE
SERVICES SOCIAUX DE CHAUDIÈRE-
APPALACHES**
and

**CENTRE INTÉGRÉ DE SANTÉ ET DE
SERVICES SOCIAUX DE LAVAL**
and

**CENTRE INTÉGRÉ DE SANTÉ ET DE
SERVICES SOCIAUX DE LANAUDIÈRE**
and

**CENTRE INTÉGRÉ DE SANTÉ ET DE
SERVICES SOCIAUX DES LAURENTIDES**
and

**CENTRE INTÉGRÉ DE SANTÉ ET DE
SERVICES SOCIAUX DE LA MONTÉRÉGIE-
EST**

and

**NUNAVIK REGIONAL BOARD OF HEALTH
AND SOCIAL SERVICES**

and

**CREE BOARD OF HEALTH AND SOCIAL
SERVICES OF JAMES BAY**

Defendants

**APPLICATION FOR PERMISSION TO AMEND
THE MODIFIED APPLICATION FOR AUTHORIZATION
TO INSTITUTE A CLASS ACTION AND TO OBTAIN THE STATUS
OF REPRESENTATIVE
(Art. 585 C.C.P)**

TO THE HONOURABLE JUSTICE CHRISTIAN IMMER OF THE SUPERIOR COURT OF QUEBEC, APPOINTED TO PRESIDE IN THE PRESENT MATTER, SITTING IN AND FOR THE DISTRICT OF MONTREAL, THE PLAINTIFF STATES AS FOLLOWS:

1. On October 2, 2019, Eleanor Lindsay (the “**Plaintiff**”) filed an “Originating Application for Authorization to institute a Class Action and to Obtain the Status of Representative” against the Attorney General of Québec (the “**Originating Application**”), the whole as more fully appears from the Court record.
2. On January 17 and 31, 2020, the Plaintiff made amendments to the Originating Application. These amendments consist primarily of:
 - a) the addition of new defendants; and
 - b) the addition of allegations and filing of new exhibits demonstrating the systematic and systemic nature of the abuses inflicted upon children in reception centers (“*centres d’accueil*”) and the fact that this situation has been brought to the Government of Québec’s attention on numerous occasions,the whole as more fully appears from the Court record.
3. All amendments to the Originating Application have been consolidated into the “Modified Originating Application for Authorization to institute a Class Action and to Obtain the Status of Representative as of January 31, 2020” (the “**Modified Originating Application of January 31, 2020**”), the whole as more fully appears from the Court record.
4. On February 26, 2020, Justice Chantal Tremblay, J.C.S., rendered a judgement authorizing the amendments to the Originating Application, the whole as more fully appears from the Court record.

5. On December 10, 2021, the Plaintiff made amendments to the Modified Originating Application of January 31, 2020 (the “**Modified Originating Application of December 10, 2021**”). These amendments consist primarily of:

- a) the modification of the description of the two proposed classes, namely the Detained Children Class and the Abused Children Class, so that solitary confinement is included in the Detained Children Class, rather than the Abused Children Class; and
- b) the addition of a start date to the description of the proposed classes, as well as allegations demonstrating that such starting date is the appropriate one,

the whole as more fully appears from the Court record.

6. On January 13, 2022, Justice Christian Immer, J.C.S., rendered a judgement authorizing the amendments to the Modified Originating Application of January 31, 2020, the whole as more fully appears from the Court record.

7. On April 8, 2022, the Plaintiff made amendments to the Modified Originating Application of December 10, 2021 (the “**Modified Originating Application of April 8, 2022**”). These amendments consist primarily of:

- a) the addition of further details to the definition of the Abused Children Class;
- b) the addition of an exclusion to the Detained Children Class and the Abused Children Class in order to account for the impact of the National Program of Reconciliation with the Duplessis Orphans or the National Reconciliation Program for Duplessis Orphans Who Were Residents of Certain Institutions on the class definition and to further specify the scope of the exclusion related to the class action authorized on August 6, 2020 in matter 200-06-000221-187 (Superior Court of Québec) in connection with Mont d’Youville reception centre;
- c) the addition of further details to the common questions with respect to the Abused Children Class;
- d) the removal of the following proposed common question “Have the following practices occurred at the reception centers: (1) detention consisting in preventing the Detained Children Class members from leaving the reception center?” and the addition of the following proposed common question “Have the following practices occurred at the reception centers: (10) other abuses, including psychological abuses, of the Abused Children Class members?”;
- e) the addition of allegations with respect to the scope and the nature of abuses suffered by the victims at the reception centres based on the information received by class counsel from putative members in confidence and under the seal of professional secrecy; and
- f) the addition of allegations regarding the elements relevant for determining whether Ms. Eleanor Lindsay is a proper representative,

the whole as more fully appears from the Court record.

8. On April 27, 2022, Justice Christian Immer, J.C.S., rendered a judgement authorizing the amendments to the Modified Originating Application of December 10, 2021, the whole as more fully appears from the Court record.
9. As announced at the outset of the hearing of April 28th, 2022, the Plaintiff now seeks the Court's permission to amend the Modified Originating Application of April 8, 2022, as per the "Modified Originating Application for Authorization to institute a Class Action and to Obtain the Status of Representative as of May 4th, 2022" (the "**Modified Originating Application of May 4, 2022**") attached hereto as **Exhibit R-1**.
10. The main proposed modifications relate to the following:
 - a) additional allegations regarding specific abuses endured by three (3) putative members of the Class during the 1950-1970 period;
 - b) the correction and update of the information disclosed by putative Class members to the undersigned counsel in confidence and subject to the duty of professional secrecy;
 - c) reformulated allegations regarding the use of cigarettes and the use of medication for disciplinary purposes;
 - d) the replacement of the word "detention" by the words "deprivation of residual liberty" to clarify that the Plaintiff seeks the authorization to exercise a class action in relation to the fact that children placed in "reception centres" were deprived of their residual liberty within such centres, and not in relation to their sole placing in such centres;
 - e) the definition of the "Detained Children Class", to be correlatively renamed as the "Residual Liberty Deprived Children Class" and further specified, including as to the definition of a "reception centre"; and
 - f) correlative adjustments of the common questions.
11. The modifications sought do not change the stated intent of the proceedings and the Plaintiff has the interest and is justified, on her behalf and on behalf of the proposed Class Members, to amend the Modified Originating Application of April 8, 2022, in accordance with the Modified Originating Application of May 4th, 2022 (Exhibit R-1).
12. The proposed class action has not yet been authorized and permitting these modifications is in the interest of justice.

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

ALLOW Plaintiff to amend the Modified Originating Application for Authorization to institute a Class Action and to Obtain the Status of Representative as of April 8, 2022, as set forth in the Modified Originating Application for Authorization to institute a Class Action and to Obtain the Status of Representative as of May 4th, 2022, Exhibit R-1;

THE WHOLE without costs, except in the event of contestation.

MONTRÉAL, May 4th, 2022

Novalex Law Firm Inc.

NOVALEX LAW FIRM INC.

Counsel for the Plaintiff

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O/File: 1860-00912

MONTRÉAL, May 4th, 2022

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AVIS DE PRÉSENTATION

DESTINATAIRES :

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Me Jean-Philippe Groleau
Me Julie Girard
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Me Guillaume Charlebois

Avocats-conseils de la Requérante

BERNARD, ROY (JUSTICE – QUÉBEC)

Mtre. Alexandra Hodder
Mtre. Isabelle Brunet

Avocats du Procureure générale du Québec

BORDEN LADNER GERVAIS S.E.N.C.R.L.

Mtre. Jean Saint-Onge
Mtre. Anne Merminod
Mtre. Andréa Ruel
Mtre. Alexis Leray

Avocats des Établissements de santé visés

PRENEZ AVIS que la présente Demande pour permission d'amender la demande pour autorisation d'introduire un recours collectif et obtenir le statut de représentant sera présentée pour adjudication devant l'honorable Christian Immer, J.C.S., au Palais de justice de Montréal, situé au 1, rue Notre-Dame Est, à une heure et date à être déterminées par la Cour.

VEUILLEZ AGIR EN CONSÉQUENCE.

MONTREAL, le 4 mai 2022

Cabinet d'avocats Novalex inc.

NOVALEX LAW FIRM INC.

Avocats de la Demanderesse

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N/Dossier : 1860-00912

EXHIBIT R-1

**C A N A D A
PROVINCE DE QUÉBEC
DISTRICT DE MONTRÉAL**

No : 500-06-001022-199

(Class Action)
SUPERIOR COURT

ELEANOR LINDSAY

Plaintiff

c.

ATTORNEY GENERAL OF QUÉBEC

and

CENTRE INTÉGRÉ DE SANTÉ ET DE SERVICES SOCIAUX DU BAS-SAINT-LAURENT, a public corporation having an office at 355 Saint-Germain Blvd. West, City of Rimouski, Province of Québec, G5L 3N2

and

CENTRE INTÉGRÉ UNIVERSITAIRE DE SANTÉ ET DE SERVICES SOCIAUX DU SAGUENAY – LAC-SAINT-JEAN, a public corporation having an office at 930 Jacques-Cartier Street East, City of Chicoutimi, Province of Québec, G7H 7K9

and

CENTRE INTÉGRÉ UNIVERSITAIRE DE SANTÉ ET DE SERVICES SOCIAUX DE LA CAPITALE-NATIONALE, a public corporation having an office at 2915 du Bourg-Royal Avenue, City of Québec, Province of Québec, G1C 3S2

and

CENTRE INTÉGRÉ UNIVERSITAIRE DE SANTÉ ET DE SERVICES SOCIAUX DE LA MAURICIE-ET-DU-CENTRE-DU-QUÉBEC, a public corporation having an office at 858 Terrasse Turcotte, City of Trois-Rivières, Province of Québec, G9A 5C5

and

CENTRE INTÉGRÉ UNIVERSITAIRE DE SANTÉ ET DE SERVICES SOCIAUX DE L'ESTRIE – CENTRE HOSPITALIER UNIVERSITAIRE DE SHERBROOKE, a public corporation having an

office at 375 Argyll Street, City of Sherbrooke,
Province of Québec, J1J 3H5

and

**CENTRE INTÉGRÉ UNIVERSITAIRE DE SANTÉ
ET DE SERVICES SOCIAUX DE L'OUEST-DE-
L'ÎLE-DE-MONTRÉAL**, a public corporation
having an office at 160 Stillview Avenue, City of
Pointe-Claire, Province of Québec, H9R 2Y2

and

**CENTRE INTÉGRÉ UNIVERSITAIRE DE SANTÉ
ET DE SERVICES SOCIAUX DU CENTRE-SUD-
DE-L'ÎLE-DE-MONTRÉAL**, a public corporation
having an office 155 St-Joseph Blvd. East, City of
Montréal, Province of Québec, H2T 1H4

and

**CENTRE INTÉGRÉ DE SANTÉ ET DE
SERVICES SOCIAUX DE L'OUTAOUAIS**, a
public corporation having an office at 80 Gatineau
Avenue, City of Gatineau, Province of Québec,
J8T 4J3

and

**CENTRE INTÉGRÉ DE SANTÉ ET DE
SERVICES SOCIAUX DE L'ABITIBI-
TÉMISCAMINGUE**, a public corporation having an
office at 1 9th Street, City of Rouyn-Noranda,
Province of Québec, J9X 2A9

and

**CENTRE INTÉGRÉ DE SANTÉ ET DE
SERVICES SOCIAUX DE LA CÔTE-NORD**, a
public corporation having an office at 835 Jolliet
Blvd., City of Baie-Comeau, Province of Québec,
G5C 1P5

and

**CENTRE INTÉGRÉ DE SANTÉ ET DE
SERVICES SOCIAUX DE LA GASPÉSIE**, a
public corporation having an office at 215 de York
Blvd. West, City of Gaspé, Province of Québec,
G4X 2W2

and

CENTRE INTÉGRÉ DE SANTÉ ET DE SERVICES SOCIAUX DE CHAUDIÈRE-APPALACHES, a public corporation having an office at 363 Cameron Road, City of Sainte-Marie, Province of Québec, G6E 3E2

and

CENTRE INTÉGRÉ DE SANTÉ ET DE SERVICES SOCIAUX DE LAVAL, a public corporation having an office at 1755 René-Laennec Blvd., City of Laval, Province of Québec, H7M 3L9

and

CENTRE INTÉGRÉ DE SANTÉ ET DE SERVICES SOCIAUX DE LANAUDIÈRE, a public corporation having an office at 260 Lavaltrie Street South, City of Joliette, Province of Québec, J6E 5X7

and

CENTRE INTÉGRÉ DE SANTÉ ET DE SERVICES SOCIAUX DES LAURENTIDES, a public corporation having an office at 290 de Montigny Street, City of Saint-Jérôme, Province of Québec, J7Z 5T3

and

CENTRE INTÉGRÉ DE SANTÉ ET DE SERVICES SOCIAUX DE LA MONTÉRÉGIE-EST, a public corporation having an office at 3120 Taschereau Blvd., Suite 7, City of Greenfield Park, Province of Québec, J4V 2H1

and

NUNAVIK REGIONAL BOARD OF HEALTH AND SOCIAL SERVICES, a public corporation having an office at CP 900, City of Kuujuaq, Province of Québec, J0M 1C0

and

CREE BOARD OF HEALTH AND SOCIAL SERVICES OF JAMES BAY, a public corporation having an office at 277, Duke Street, City of Montreal, Province of Québec, H3C 2M2

Defendants

MODIFIED APPLICATION FOR AUTHORIZATION TO INSTITUTE A CLASS ACTION AND OBTAIN THE STATUS OF REPRESENTATIVE AS OF MAY 4TH, 2022
(Article 575 of the *Code of civil procedure*)

IN SUPPORT OF HER APPLICATION, THE PLAINTIFF RESPECTFULLY SUBMITS AS FOLLOWS:

1. **The Plaintiff wishes to institute a class action on behalf of natural persons forming part of the following classes hereinafter described and of which she is also a member, namely:**

All persons (...) placed in a “reception center” (“*centre d’accueil*”) (as defined below) as children up to 17 years old inclusively who, on or after October 1st, 1950, were deprived of their residual liberty at such “reception center”, including by being prevented from leaving a common area, being locked up in their cells, being locked up in a cell or being placed in solitary confinement.

A “reception center” is (...) defined as any facility (a) in which youth are or were received for lodging, maintenance, keeping under observation, treatment, or rehabilitation purposes, and (b) which is or was recognized or licensed for such purposes by the government of Québec or one of its ministers. A “reception center” may also have been known as :

- a “youth protection school” or an “industrial school”, under the *Youth Protection Schools Act*, S.Q., 14 Geo. VI (1950), c. 11 (as amended and revised from time to time), art. 1.1b) and 48;
- a “charitable institution”, under the *Québec Public Charities Act*, S.Q. 11 Geo. V (1921), c. 79 (as amended and revised from time to time), art. 3e);
- a “reception centre”, under *An Act respecting health services and social services*, S.Q. 1971 c. 48 (as amended and revised from time to time), art. 1j);
- a “reception centre”, under *An Act respecting health services and social services for Cree Native persons*, S.R.Q. Chapter S-5, art. 1(k); or
- a “child and youth protection centre”, a “rehabilitation centre”, a “rehabilitation centre for young persons with adjustment problems” or a “youth centre”, under the *Act*

respecting health services and social services, S.Q. 1991, c. 42 (now revised as CQLR c. S-4.2) (as amended and revised from time to time), art. 79, 82, 84, 86 and 87.1;

including, without being limited to, the following institutions:

Children's Home, Accueil Boyer, Accueil des Jeunes, Allancroft, Auberge des 4 Vents (also known as Centre de réadaptation des quatre-vents, Centre d'accueil des quatre-vents and Campus des quatre-vents), Batshaw Family Youth Centres (also known as Centres de la famille Batshaw), Berthelet, Boscoville, Boys' Farm and Training School (also known as Shawbridge Boys Farm), Carrefour des Jeunes, Carrefour Jeunesse Rosemont, Carrefour St-Arsène, Carrefour St-Jérôme, Carrefour Sylvie, Carrefour des Vieilles Forges (also known as Pavillon Bourgeois), La Calèche (also known as Centre éducatif et de plein-air La Calèche inc.), Centre Cartier, Centre Familial Thérèse Martin, Centres Familiaux Lac St-Jean, Centre d'accueil Cité des Prairies, Centre d'accueil des Laurentides, Centre d'accueil Dixville, Centre d'accueil Godefroy Laviolette, Centre d'accueil Laurizon-Laurentien, Centre de réadaptation en déficience intellectuelle du Québec (CRDIQ), Centre de réadaptation La Triade, Centre de réadaptation pour les jeunes en difficulté d'adaptation de Gaspé, Centre de réadaptation pour les jeunes en difficulté de La Matanie, Centre de santé Inuulitsivik, Centre de santé Tulattavik de l'Ungava, Centre d'Orientation, Centre Élan jeunesse, Centre jeunesse de Chaudière-Appalaches, Centre jeunesse de l'Abitibi-Témiscamingue, Centre jeunesse de la Montérégie, Centre jeunesse de la Montérégie de Salaberry-de-Valleyfield, Centre jeunesse de Lanaudière, Centre jeunesse de Laval, Centre jeunesse de la Mauricie et du Centre-du-Québec, Centre jeunesse de Montréal, Centre jeunesse de Québec, Centre jeunesse de l'Estrie, Centre jeunesse du Bas-St-Laurent, Centre jeunesse du Saguenay-Lac-Saint-Jean, Centre jeunesse Gaspésie/Les Îles, Centre Rose-Virginie Pelletier, Clairséjour (also known as Clair séjour Marie-Joseph), Cinquième Saison, Crescent House, Dominique Savio, Dominique Savio-Mainbourg, L'Étape, Mount Bruno Girls' Cottage School, Habitat Soleil, Hochelaga-Maisonneuve, Jeunesse de Tilly, La Chesnaie, Centre d'accueil Laurentien, Centre d'accueil Laurizon, La Clairière, L'Escale, Le Mainbourg, Le Phare, Maisons Familiales d'Youville, Maisons Marie-Fitzbach, Maison Rouyn Noranda, Maison Sacré-Cœur, Maplemount Home, Marian Hall, Marie Vincent, Monseigneur Forget, Monseigneur Guay, Mont Saint-Antoine, Mont Saint-Aubert, Mont Saint-Patrick, Mont Villeneuve, Notre-Dame du Bel Amour, Notre-Dame de la Garde, Notre-Dame de Laval, Notre-Dame de l'Enfant, Notre-Dame du Perpétuel Secours, Pavillon Bois-Joly, Pavillon de l'Enfance, Pavillon des Jeunes, Pavillon Jeunesse, Pavillons Laforest, Pavillons du Parc, Pavillon Richelieu, Providence St-Joseph, Pavillon Toupie, Relais (Le), Relais Laval, Relais St-François, Saint-Charles, Services Barbara Rourke, St-Georges, St-Jean-Baptiste, St-Vallier, Ste-Agnès, Ste-Domitille, Ste-Hélène, Summerhill Homes, La Terre, Teen Heaven, Val-du-Lac, Val Estrie, Val Séjour, Vert Pré d'Huberdeau, La Vigie, Villa Dion, Villa Notre-Dame de Grâce, Villa Joie St-Dominique (also known as Ville-Joie St-Dominique), Ville-Marie Social Services, Unité La Rade, Unité Le Rivage, Weredale House and Youth Horizons.

(the "(...) Residual Liberty Deprived Children Class")

- and -

All persons having been subject to abuses, including, without being limited to, assault or other physical abuses, sexual assault or other sexual abuses, (...) use of medication for disciplinary purposes, (...) use of cigarettes for disciplinary purposes, psychological abuses, during their admission at a youth “reception center” (“*centre d’accueil*”), as defined for the purposes of the (...) Residual Liberty Deprived Children Class, on or after October 1st, 1950, while they were children up to 17 years old inclusively.

(the “**Abused Children Class**” and collectively with the (...) Residual Liberty Deprived Children Class, “**Class Members**”)

The (...) Residual Liberty Deprived Children Class and the Abused Children Class are subject to the following exclusions:

Exclusion 1: Persons who are part of the class on behalf of which a class action was authorized on August 6, 2020 in matter 200-06-000221-187 (Superior Court of Québec) in connection with Mont d’Youville reception centre. This exclusion does not apply to such persons if they were also admitted to reception centres other than Mont d’Youville.

Exclusion 2: Persons who received financial assistance and signed a release pursuant to the National Program of Reconciliation with the Duplessis Orphans or the National Reconciliation Program for Duplessis Orphans Who Were Residents of Certain Institutions (collectively, the “**NPRDO**”). This exclusion does not apply to such persons if, beyond having been admitted to one of the institutions covered by the NPRDO between October 1, 1950 and December 31, 1964, **(i)** they were also admitted during this period to reception centres which are not covered by the NPRDO; or **(ii)** they were also admitted or readmitted, on or after January 1, 1965, to any reception centre.

2. **The facts that give rise to an individual action on behalf of the Plaintiff against the Defendants, are as follow:**

- 2.1. The Plaintiff, Ms. Eleanor Lindsay, is 59 years old.
- 2.2. Eleanor Lindsay was 7 years old when she immigrated from Scotland to Canada with her family.
- 2.3. The family established itself in the City of Montréal, Province of Québec, where Eleanor grew up.
- 2.4. From age of 8 onwards, Eleanor Lindsay was sexually abused by her father.
- 2.5. When Eleanor Lindsay was 12 years old, youth protection services (Ville Marie Division) started inquiring about the family’s situation.
- 2.6. In the course of this inquiry, Eleanor Lindsay was sent to a group home, Crescent House, located in the City of Westmount, where she stayed for a few months.
- 2.7. While at Crescent House, Eleanor Lindsay was enrolled at Westmount High School but had a difficult time being accepted by other students once it was known that she came from a group home.
- 2.8. As a result, Eleanor Lindsay started avoiding going to school.

- 2.9. This led to Eleanor Lindsay being labelled as a “trouble maker” and being sent to Notre-Dame de Laval youth reception center.
- 2.10. Immediately upon arriving at Notre-Dame de Laval, Eleanor Lindsay, then 13 years old, was dragged into an isolation cell located in the basement of the reception center and placed in solitary confinement.
- 2.11. The isolation cell was small, with a foam mattress (with a strapping mechanism) on cement slab, and a steel sink over toilet. The guards would watch Eleanor Lindsay when she used the toilet.
- 2.12. Eleanor Lindsay spent days crying, hitting on the door and imploring the guards to let her out of the isolation cell. They would not.
- 2.13. After 3 days in solitary confinement, Eleanor Lindsay, broken, was transferred upstairs to a “room” with a barred window and a steel grid door with an outside lock. This “room” was no different from a prison cell.
- 2.14. The rectangular area formed by Eleanor Lindsay’s cell and the cells of the other children in the unit was called the “common area”. The common area was a space where the children belonging to the same unit (approximately fifteen) could spend time together and eat when they were not locked up in their cells or held in solitary confinement.
- 2.15. While at Notre-Dame de Laval, Eleanor Lindsay and the other children were not allowed to spend more than an hour per day in the outdoor yard. Thus, even when these children “behaved” up to their guards’ standards, they were still locked inside the common area.
- 2.16. Getting out of one’s cell into the common area depended on the guards’ mood.
- 2.17. During her several months stay at Notre-Dame de Laval, Eleanor was systematically locked up in her cell for the most trivial “offenses”, including the ‘offense’ of not feeling well.
- 2.18. Worse, Eleanor Lindsay had been sent to solitary confinement on a recurrent basis, to punish her for “offenses”, such as crying, causing a disturbance, having nightmares and waking other children.
- 2.19. While at Notre-Dame de Laval, Eleanor Lindsay witnessed other children being sexually touched, caressed and kissed on the lips by a male guard. This would mostly happen at the end of the day, during the guard’s “good night” round.
- 2.20. After Notre-Dame de Laval, Eleanor Lindsay, was transferred to another youth reception center, Marian Hall, where she would spend approximately 3 years (until the age of 16).
- 2.21. When Eleanor Lindsay saw that Marian Hall had a pool and a recreation room, she was full of hope that this center would be better than Notre-Dame de Laval.
- 2.22. As subsequent events demonstrate, her hopes were vain.

- 2.23. A few days after her arrival at Marian Hall, Eleanor Lindsay was given the order to take Valium and sleeping medication. Heavily medicated, she felt constantly “like a zombie” and could not concentrate while attending classes in the basement. She was often locked up in her room.
- 2.24. At age 15, Eleanor Lindsay was given a new medication and experienced severe side effects, that caused jaw misalignment and severe drooling. She saw another child, who was taking the same medication, experience the same side effects.
- 2.25. While at Marian Hall, Eleanor Lindsay witnessed on a recurrent basis children trying to run away or hurt themselves in order to escape, even for a short period of time. Lockdowns and solitary confinement were a routine practice, with children being handcuffed or tied to the beds.
- 2.26. Indeed, while at Marian Hall, Eleanor Lindsay had been repeatedly sent to solitary confinement for trivial “offenses”.
- 2.27. The isolation cells at Marian Hall were similar to the isolation cells at Notre-Dame de Laval but had a pot instead of a toilet.
- 2.28. In one instance, Eleanor Lindsay, then 15 years old, was sent to solitary confinement for 3 days because she was upset by the death of one of her friends and could not stop crying.
- 2.29. That time, upon release from solitary confinement and out of despair, Eleanor Lindsay cut her wrist veins for the first time.
- 2.30. Each occurrence of solitary confinement caused Eleanor Lindsay tremendous physical and psychological suffering and pain. She lost all sense of dignity and self-worth.
- 2.31. Eleanor was released from Marian Hall at the age of 16, but she never recovered from the abuses she suffered as a child at Notre-Dame de Laval and at Marian Hall.
- 2.32. The years following Eleanor Lindsay’s release from Marian Hall were marked by shame, inability to have a stable employment, homelessness, severe depression, anxiety, nightmares and panic attacks.
- 2.33. For most of her adult life, Eleanor Lindsay tried to bury the memories of what happened to her at Notre-Dame de Laval and at Marian Hall by resorting to severe alcohol and substance abuse. When this was not enough, Eleanor Lindsay attempted to end her life.
- 2.34. After years of struggle, Eleanor Lindsay is now able to come forward and, for the first time, to publicly reveal, by way of an interview given to a public television program and by way of these proceedings, the traumatic treatments inflicted upon her and the other children at the reception centers.

- 2.35. In sum, Eleanor Lindsay has endured most cruel and debilitating treatments in the hands of institutions whose role was to protect her. As a result, her life, as the life of many other children, have been forever crippled.
3. **The facts that give rise to an individual action on behalf of each member of the (...) Residual Liberty Deprived Children Class and of the Abused Children Class against the Defendants, are as follow:**
 - 3.1. Eleanor Lindsay's tragedy is not an isolated case.
 - 3.2. As evidenced by the investigation of Ms. Gillian Cosgrove and the ensuing public inquiry, children were systematically detained and subject to most debilitating treatments at the reception centers.
 - 3.3. In year 1974, Gillian Cosgrove, then a journalist with the *Montreal Gazette*, contacted Notre-Dame de Laval reception center with a request for an interview and a visit of the center. Her request was denied by the director of Notre-Dame de Laval, on the pretext that the center was not open to the public.
 - 3.4. In December 1974, Gillian Cosgrove obtained an employment at Notre-Dame de Laval and spent 2 weeks inside the center while working as an "educator".
 - 3.5. During this period, Gillian Cosgrove witnessed first-hand child abuses similar to those suffered by Eleanor Lindsay.
 - 3.6. Lockdowns in cells, solitary confinement, beatings, (...) use of medication for disciplinary purposes and (...) use of cigarettes for disciplinary purposes (by giving cigarettes to children who did not smoke upon admission and then withholding cigarettes from them) were systematic at Notre-Dame de Laval.
 - 3.7. For instance, in December 1974, Gillian Cosgrove witnessed a young girl being held in solitary confinement. She was strapped to a filthy mattress, could not use the toilet and was left laying in her own feces, urine and menstrual blood for days.
 - 3.8. In another instance, Gillian Cosgrove witnessed all the children held in a unit being collectively medicated with Valium, without having been seen by a nurse or a physician. Such medication occurred on an indiscriminate basis in order to "calm" (subdue) a group of children whose behaviour seemed turbulent to the guards.
 - 3.9. Gillian Cosgrove later described the widespread horror she witnessed at Notre-Dame de Laval in a series of articles published in the *Montreal Gazette* on January 2nd and 3rd, 1975, **Exhibits P-1** (entitled "*Jail handcuffs girls and straps them to concrete bed*") and **P-2** (entitled "*Architecture masks aim*").
 - 3.10. Further to the publication of these articles, a public commission of inquiry took place.
 - 3.11. The final report of this commission of inquiry, titled *Rapport du comité d'étude sur la réadaptation des enfants et adolescents placés en centre d'accueil* dated December 22, 1975 (the "**Batshaw Report**"), **Exhibit P-3**, confirmed, among other

things, appalling detention and solitary confinement practices at the reception centers:

“Telle qu’elle se pratique actuellement, la détention donne lieu à des pratiques aberrantes. Les jeunes sont placés en détention pour toutes sortes de raisons dont la plupart nous semblent inacceptables. Dans l’état actuel des choses, il est permis de croire que les séjours en détention ne font aucun bien à l’enfant et ils risquent de lui causer un tort irréparable. Les jeunes placés en détention n’ont pas commis, pour la plupart, des délits suffisamment graves pour justifier un hébergement sécuritaire.”

Summary of the Batshaw Report, **Exhibit P-4**, p. 6.

“(…) lors de nos visites, la période la plus longue d’isolement dont nous avons entendu parlé a été de 21 jours (…)”

The Batshaw Report, Exhibit P-3, p.103.

- 3.12. The Batshaw Report also stated that despite media revelations related to solitary confinement of children and the public condemnation thereof, “educators” continued to use this method nonetheless, Exhibit P-3, section 2.6.4, p. 102.
- 3.13. The Batshaw Report was neither the first nor the last instance revealing cruel and inhuman treatment of children entrusted to the care of the State and its institutions.
- 3.14. These cruel and inhuman treatments of children have been systematically and systemically inflicted on Québec children for decades and are still being inflicted on them to the present day and so, despite the government having been put on notice on multiple occasions since at least 1948, as reported by Renée Joyal in an article titled “*Les lois de protection de la jeunesse de 1950-1951 : un accommodement historique sous le signe du paternalisme d’État et d’Église* » in *L’évolution de la protection de l’enfance au Québec : des origines à nos jours*, Québec, PUQ, 2000, pp. 166, 167, **Exhibit P-31**.
- 3.15. As reported by Victor Malarek in an article titled “*Housewife says daughter 'going crazy' in solitary*” published in the *Montreal Star* on November 2nd, 1971, **Exhibit P-5**, a distraught mother had previously complained to the Ministry of Social Affairs and other government officials about the debilitating consequences suffered by her daughter as a result of solitary confinement at a reception centre.
- 3.16. Twenty-seven years later, in 1997, the *Commission des droits de la personne et des droits de la jeunesse* (the “**CDPDJ**”) launched an investigation regarding the abuses inflicted on children at the La Chapelle unit of the Prévost reception centre, including systematic lockdowns, solitary confinement and the case of a boy described as follows:

“The letter also mentioned the case of one youth in particular, who had been observed in an isolation room, lying in the fetal position with his thumb in his mouth. He seemed to be in a state of depression, completely lost, and lacking in stimulation. Moreover, the unit was

used to house both young offenders and youths in need of protection, and its structure was reminiscent of a prison.”

The Batshaw Youth and Family Centres – Prévost Campus – La Chapelle Unit, Conclusions of the Investigation, May 1997, official English translation, **Exhibit P-6**, p. 2.

- 3.17. The La Chappelle investigation examined practices known as “*arrêt d’agir*” and “intensive supervision”. These practices are characterized by the imposition of an increased level of restrictions and deprivation of liberty upon children. These practices are most often used at “intensive supervisions units” operated by reception centres.
- 3.18. Further to its investigation regarding deprivation of liberty at intensive supervision units and solitary confinement of children, the CDPDJ concluded that the reception centre’s use of solitary confinement, intensive supervision units and the “*arrêt d’agir*” program as disciplinary measures were illegal in youth protection cases and that children’s fundamental rights had been violated:

“As a result of these observations, the Commission concludes that the situation at the La Chapelle unit of the Batshaw Youth and Family Centres, due to the programs and intervention philosophy as well as the premises in which the services are dispensed, constitutes a violation of the rights of the youths for whom the Centre is responsible.”

The Batshaw Youth and Family Centres – Prévost Campus – La Chapelle Unit, Conclusions of the Investigation, May 1997, official English translation, Exhibit P-6, p. 19.

- 3.19. On that occasion, the CDPDJ also exhorted youth protection authorities and the Ministry of Health and Social Services to implement changes and to immediately stop subjecting children to the “*arrêt d’agir*” program in youth protection cases, Exhibit P-6, pp. 16 to 22.
- 3.20. A year later, in 1998, concerned with the recurrent use of various forms of child detention at reception centres, the CDPDJ issued a statement regarding the manifest illegality of such measures as applied to youth protection cases:

“Dans plusieurs dossiers, la Commission des droits de la personne et des droits de la jeunesse est confrontée à la situation d’enfants qui, placés en vertu de la Loi de la protection de la jeunesse dans des centres de réadaptation, sont gardés dans des conditions restrictives de leur liberté qui s’apparentent plutôt à des conditions de détention: interdiction de sortir de l’établissement, sorties à l’extérieur à toutes fins pratiques restreintes à la cour du centre ou à des déplacements très encadrés, portes d’unité fermées à clef, portes de chambres fermées à clef, surveillance stricte, interdiction de porter des effets personnels, y compris des sous-vêtements, programme d’arrêt d’agir comportant des conditions extrêmement sévères, etc. (...)

(...) l’encadrement intensif dit statique, qui se caractérise de mesures restrictives de liberté de telle sorte que l’enfant, dont la liberté est déjà restreinte pour des motifs prévus par la loi et selon la procédure prescrite à la suite d’une ordonnance d’hébergement obligatoire, se retrouve privé de sa liberté résiduelle, ne respecte pas les droits garantis à l’enfant par l’article 24 de la Charte des droits et libertés de la personne du Québec, et, en conséquence, ne respecte pas les droits qui lui sont reconnus par les articles 3 et 8 de la Loi sur la protection de la jeunesse.”

*La légalité de l’encadrement intensif en vertu de la Loi sur la protection de la jeunesse, CDPDJ, October 9th, 1998, **Exhibit P-7**, pp. 1 and 6.*

- 3.21. Two years later, in 2000, the CDPDJ was informed (and, in turn, informed the government) of yet another instance of child abuse, including detention practices, at another reception centre:

“Le 6 décembre 1999, un premier requérant porte à l’attention de la Commission des droits de la personne et des droits de la jeunesse une série de situations qui se seraient produites au centre de réadaptation pour jeunes en difficulté d’adaptation Pavillon Bois-Joly des Centres jeunesse de la Montérégie, aussi appelé Campus de St-Hyacinthe.

En effet, depuis juin 1998, des personnes auraient été témoins de retraits fréquents, de mises en isolement répétées et abusives, de mesures disciplinaires excessives décrétées à l’endroit de jeunes qui sont hébergés aux unités Le Phare et Le Havre du Pavillon Bois-Joly de St-Hyacinthe. Ensemble, elles déplorent les conditions inacceptables imposées aux enfants. Selon ces personnes, ces conditions s’apparentent à celles d’un milieu carcéral pour adultes et sont empreintes d’une grande sévérité et d’abus d’autorité. À titre d’exemple, on soumet qu’un adolescent de l’unité Le Phare aurait été maintenu la nuit en isolement sans disposer de matelas ou de couvertures. Cet adolescent se serait mutilé volontairement pour mettre fin à son isolement afin d’être dirigé vers un hôpital. De plus,

pendant plusieurs semaines, il aurait été soumis à un régime strict de confinement en chambre, repas y compris, sans matelas ni couvertures et sans avoir accès à ses effets personnels. Des activités de réadaptation ou sportives auraient été permises de façon parcellaire.

Ces mêmes personnes font état de deux situations qu'elles qualifient d'agressions physiques en raison de la rudesse déployée par un éducateur à l'endroit d'enfants hébergés à l'unité Le Havre. Elles relatent également la situation d'un jeune garçon qui serait demeuré en isolement de longues heures pour s'être opposé aux éducateurs et avoir déféqué dans ses culottes. On note enfin que le courrier serait intercepté et lu avant d'être remis aux jeunes."

Rapport et conclusion d'enquête Pavillon Bois-Joly, CDPDJ, September 2000, Exhibit P-8 (the "Bois-Joly Report"), p. 3.

- 3.22. In the course of the Bois-Joly investigation, the CDPDJ obtained documentary evidence consisting of contemporaneous reports drafted by the reception centre's staff and consigned into a registry titled "*Cahier de relais*". The Bois-Joly Report contains quotes from these "*Cahier de relais*".
- 3.23. The contents of the "*Cahier de relais*" some of which are reproduced below, and the testimonial evidence gathered by the CDPDJ in the course of the Bois-Joly investigation unequivocally show that children have been routinely subject to abuse, solitary confinement and "removal" (an euphemism used to describe the lockdown of a child in her room) as disciplinary measures for trivial offences, including the "offence" by a boy of not being able to resist the urge to defecate as a result of his medical condition (the quotes below are from the Bois-Joly Report, which, in turn, integrates the quotes from the *Cahier de relais*):

"En somme, pour sa remarque désobligeante, Alain se verra décerner 24 heures de retrait en chambre, cinq heures supplémentaires parce qu'il n'assume pas correctement sa conséquence (fait des grimaces à sa fenêtre de porte) en plus d'un autre 4 heures et 30 minutes pour s'en être plaint auprès d'un surveillant. En tout, il sera en retrait dans sa chambre pendant 33 heures 30 minutes.

1. 7.3.2 D'autres exemples de retrait

Ces exemples sont tirés des Cahiers de relais.

03.08.1999 8h30. Un jeune fait la gueule, il ne retourne pas mon bonjour, j'essaie de savoir le pourquoi et aucune réponse. Bon, si tu commences la journée de ce pied tu peux rester en haut

16.08.1999 11h45. Un jeune a été retiré pendant l'activité sportive. Sur le chemin du retour, (un jeune) demeure encore loin à l'écart du groupe en se traînant les pieds. O.K. mon ti-pit. Au retour, je l'avise qu'il est retiré du groupe et à sa chambre jusqu'au souper.

10.09.1999 8h40. Il demande jusqu'à quand le retrait. Comme tu vois, je suis seul, donc je n'aurai pas le temps de te rencontrer, peut-être à midi ?

29.09.1999 20h30. Une jeune est retiré. Là il s'excuse. Trop tard. T'as eu le temps de faire ta crise et la sanction est donnée. J'ai vidé sa chambre aussi.

30.09.1999 11h50. Dîner : retrait d'(un jeune) qui ne s'implique pas dans les conversations.

13.10.1999 7h30. Un jeune est irrespectueux envers un autre jeune Ses conversations sont border-lines et de plus il fait un signe de la main à (un troisième jeune) qui a une signification particulière qui m'est inconnue et qui est certainement négative. Je le retire. ”

The Bois-Joly Report, Exhibit P-8, p. 12.

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“Les isolements imposés à Antoine, de juillet à décembre 1999 (...)

Dans 12 de ces situations, et selon les motifs colligés par le personnel éducateur pour justifier cette mesure, la Commission constate que :

- l'élément de dangerosité est absent ;
- le jeune a recouvré la maîtrise de soi, mais la mesure se poursuit ;
- l'isolement est utilisé a des fins disciplinaires ;
- l'isolement est utilisé pour sanctionner un comportement indésirable en lien avec l'encoprésie du jeune (à 4 occasions dont une se prolonge pendant 17 heures).”

The Bois-Joly Report, Exhibit P-8, pp. 17 and 18.

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“1.7.5.3 D'autres exemples d'isolement

Ces exemples sont tirés des Cahiers de relais.

22.07.1999 15h35. Retour du groupe de la piscine (un jeune) refuse de collaborer, il me lance un paquet de cig dans ma direction, bref la stratégie c'est de le faire entrer dans le centre. Alors il entre, et les surveillants viennent le cueillir. Pour le chemin à l'iso. (...)

03.08.1999 21h45. La situation dégénère avec (un jeune) qui se retrouvent à l'iso parce qu'il est opposant et ne veut pas prendre sa douche.

04.08.1999 17h30. (Un jeune) joue avec sa nourriture = avertissement, il continu = chambre = iso.

17.08.1999 13h30. Un jeune est avisé qu'il ne participe pas à l'activité à cause de ses comportements depuis deux jours, selon l'éducateur il n'est pas en retrait, la situation dégénère en isolement."

The Bois-Joly Report, Exhibit P-8, p. 20.

"2.3.4 Les allégations d'attitudes dénigrantes

Lors de la demande d'enquête, les requérants allèguent que les éducateurs utilisent des propos dénigrants à l'endroit des jeunes. Voici quelques extraits du Cahier de relais relevés lors de l'enquête de la Commission qui illustrent cette situation.

Observations notées au Cahier de relais

28.07.1999 (Un enfant) dit qu'il attendait qu'on lui décerne une douche... Voyons, tu sais comment ça marche donc... pas prêt, déjeuner en chambre. En faisant sa tournée des réveils ce matin, (un éducateur) a oublié la chambre #3... était-ce volontaire, donc (deux éducateurs) descendent avec le groupe après des consignes très claires. Je m'occupe des deux zarzos en haut. ...

(Un enfant) a peur du ballon, une vraie moumoune.

01 08 1999 On prépare les cabarets pour les retraités. Les retraités montent en attendant leurs visites.

17.08.1999 (Un éducateur) rencontre (un enfant) pour lui remettre d'autres réflexions car celles d'hier étaient très oppositionnelles. Un retour avec (l'éducateur) qui se fait sur le bord des larmes... pauvre victime. Donc, on lui demande de faire une réflexion sans opposition ni bullshit.

Dîner : nous sommes à la hauteur des gars (minable, piteux, ennuyant).

18.08.1999 (Un enfant) en fait plus que moins. Il vient discuter avec moi. Pas trop intelligent...

14.09.1999 Nos gagnants du concours de Zombie : 1er jeune : Zombie air bête; 2e jeune : Zombie aux yeux les plus pochés; 3e jeune : Zombie frustré; 4e jeune : Zombie au plus beau bleach.

23.09.1999 Gros bébé, il pleure... "

The Bois-Joly Report, Exhibit P-8, p. 25.

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“2.3.5 Les allégations d’abus de pouvoir

Des abus de pouvoirs de la part des éducateurs ont également été dénoncés par les requérants. Les quelques extraits suivants du Cahier de relais documentent ces allégations.

Observations notées au Cahier de relais :

02.07.1999 C’est beaucoup plus calme, plus adéquat comme ambiance. Les regards sont directs. Il faut toujours avec eux, les surveiller et avoir le retrait comme sanction.

09.07.1999 Suite à l’interrogation de (agent d’intervention) au sujet de (un enfant) qui n’a pas pris l’air depuis mercredi (07.07); j’ai téléphoné à (chef d’unité) pour avoir l’autorisation de le sortir 10 minutes pour prendre l’air. Ce n’était pas vraiment justifiable de le laisser en haut (chambre) parce qu’il ne fume pas.

16.08.1999 WOW : tu vas pas nous faire ch... et surtout pas nous dire quoi faire, quand même s’il se contrôle, on constate qu’il n’aime pas plus qu’avant le contrôle.

18.08.1999 Bricolage : (un enfant) inscrit 4 lettres sur le côté de son bateau à coller dont je ne connais pas la signification mais qui n’est certainement pas positive. Je lui fais la remarque. Il réplique de façon sarcastique. Je le retire.

19.08.1999 Il n’est pas en position d’argumenter aucune décision des éducateurs.

27.08.1999 On a oublié la collation de (deux enfants) = ils nous font sentir cette terrible injustice. Devant leur réaction disproportionnée = ils s’en passent.

09.09.1999 Je retire un jeune car a dépassé ma patience.”

The Bois-Joly Report, Exhibit P-8, p. 26.

- 3.24. In light of these blatant violations of the children’s fundamental rights and the resulting pain, suffering and trauma, the CDPDJ, again, exhorted youth protection authorities and the Ministry of Health and Social Services to eradicate the impugned practices.
- 3.25. In 2002, the CDPDJ authorized a systemic inquiry into the youth protection services provided to children in Nunavik. This inquiry was authorized after the CDPDJ received several complaints addressing the situation of children who were receiving inadequate treatment while placed in reception centres in Nunavik.

3.26. The CDPDJ released its report in April 2007, titled *Enquête portant sur les services de protection de la jeunesse dans la baie d'Ungava et la baie d'Hudson – Nunavik – Rapport, conclusions d'enquête et recommandations*, **Exhibit P-9**.

3.27. In the ensuing report, the CDPDJ made the following findings:

“Au Centre de réadaptation, les procédures d'isolement sont généralement conformes aux positions de la Commission. Toutefois, ces procédures n'ont pas été suivies dans le cas de plusieurs retraits de longue durée assimilables à une mesure d'isolement; (...)

Une adolescente a été victime d'agression sexuelle par deux autres jeunes au Foyer de groupe d'Inukjuak. À son arrivée dans le même foyer de groupe, une autre adolescente a été agressée sexuellement par un gardien de nuit qui, selon les policiers, n'en était pas à son premier abus. L'adolescente a bénéficié de peu de soutien par la suite; au Foyer de groupe d'Inukjuak, un adolescent est demeuré six heures en isolement bien qu'il ait retrouvé son calme, sans être rencontré pendant cette période. Il était vêtu d'un seul caleçon. (...)

L'enquête a révélé qu'au Foyer de groupe de Puvirniq, des adolescents peuvent demeurer en isolement pendant plusieurs heures, voire jusqu'à 24 heures. ”

Enquête portant sur les services de protection de la jeunesse dans la baie d'Ungava et la baie d'Hudson – Nunavik – Rapport, conclusions d'enquête et recommandations, CDPDJ, April 2017, Exhibit P-9, pp. 46-47.

3.28. Two years later, in 2004, the *Conseil permanent de la jeunesse* published a research paper for the purpose of which it interviewed hundred children and young adults who had been or were being held then in a reception centre. Their testimonies regarding solitary confinement and similar measures and the impact thereof are as follows:

“Audrey : C'est dégradant, je me suis fait mettre en prison, c'est pareil. On a une petite chambre avec des petits barreaux, on voit pas bien, on peut pas sortir, il y a des clôtures.

Rosalie : C'est une prison pour jeunes. Je pense qu'il n'y a aucun jeune qui mérite ça d'être emprisonné. [...] C'est pas une vie. Moi je ne le souhaite pas à personne. [...] T'as le goût de crever, veux veux pas. C'est pas une vie.

Justine : J'me sentais comme en prison. Une prison pour adultes, carrément. (...)

Mathieu : C'est pas une vie. [...] Moi j'aimerais mieux aller en prison qu'en centre jeunesse! (...)

Émy : Moi en centre d'accueil je trouvais que la vie c'était comme de l'esclavage. Parce que le soir avant de se coucher on avait une heure pour aller aux toilettes puis on n'avait pas le droit de se réveiller jusqu'au lendemain matin jusqu'à ce qu'eux nous réveillent. On n'avait pas le droit de sortir aux toilettes parce qu'on avait une «conséquence». On s'est ramassé avec des filles qui faisaient pipi dans les poubelles pour ne pas subir les conséquences. Moi aussi j'ai fait ça. Pour ne pas subir de conséquences, on pissait dans la poubelle de notre chambre puis le lendemain on la vidait. [...] On n'avait pas le droit de sortir de notre chambre. [...] Quand on avait une gastro, là, ils le permettaient. [...] Moi j'étais nerveuse, il fallait que j'aille aux toilettes. C'est naturel aller aux toilettes je trouve.

Laura : Comme la semaine que j'étais dans ma chambre, tu pesais sur un piton pour dire que tu avais envie d'aller aux toilettes. Des fois y te faisaient attendre longtemps. À un moment donné, il a fallu que je pisse dans mon lavabo, j'en avais trop envie. (...)

Sarah : Au sécuritaire là, c'est traumatisant, c'est hallucinant!

Catherine : Le sécuritaire, c'est affreux! (...)

Laura : J'ai été une semaine enfermée dans ma chambre. Je mangeais dans ma chambre, je sortais juste pour aller aux toilettes.

Émy : Quand je dormais là [bloc de retrait] je n'avais pas le droit aux couvertures, je n'avais pas le droit d'un oreiller, j'avais juste un matelas. [...] J'avais froid, c'était l'hiver.”

*Les jeunes en centres jeunesse prennent la parole! - Rapport de recherche, Conseil permanent de la jeunesse, July 2004, **Exhibit P-10**, pp. 16 to 22.*

- 3.29. In a companion document, the *Conseil permanent de la jeunesse* issued the following requests to youth protection authorities and the Minister of Health and social services:

“Recommandation 3

Le Conseil permanent de la jeunesse recommande au ministre de la Santé et des Services sociaux, en collaboration avec le directeur général de l'Association des centres jeunesse et les directeurs généraux des centres jeunesse de prendre immédiatement les mesures nécessaires afin que cesse toute forme de coercition à l'égard des jeunes en centre jeunesse. (...)

Recommandation 16

Le Conseil permanent de la jeunesse recommande aux directeurs généraux des centres jeunesse de tout mettre en œuvre afin que

cessent les abus de pouvoir pouvant survenir dans leurs établissements, d'interdire l'usage de la contention physique ou chimique et d'empêcher l'application des mesures de restriction de la liberté pour les pensionnaires de leurs établissements.”

Les jeunes en centres jeunesse prennent la parole! - Avis, Conseil permanent de la jeunesse, July 2004, Exhibit P-11, pp. 80 and 85.

- 3.30. A year later, in 2005, Paul Arcand gathered the following testimonies while investigating the issue of solitary confinement of children at reception centres and related measures:

<p>0:47:00 Lucie Lemonde Researcher</p>	<p><i>On utilise énormément toutes sortes de formes de confinements, donc, des privations additionnelles de liberté, comme par exemple de mettre des enfants en isolement; de mettre des enfants en retrait de longues heures (euh) ou en arrêt d’agir, par exemple. C’est un programme 0-5 jours où ils peuvent être dans leur chambre jusqu’à 21 heures par jour.</i></p>
<p>0:48:01 Claude Bois (CDPDJ Investigator)</p>	<p><i>La position de la Commission a été que la loi ne permet pas cette situation-là, extrême où on va vraiment isoler un enfant même si, selon cliniquement parlant, selon les intervenants, ça peut être bénéfique, la loi leur permet pas.</i></p> <p><i>Donc, nous, à partir de ce moment-là où on est interpellé, on va intervenir pour faire en sorte que l’enfant soit remis dans un contexte souvent d’hébergement, mais d’hébergement où est-ce qu’on va lui servir des services de rééducation. On ne le mettra pas dans un endroit isolé, souvent pendant des heures. Et j’aimerais dire juste des heures, mais on a pu constater à plusieurs occasions, c’est que c’était pendant plusieurs jours que des enfants étaient isolés dans des salles, seuls, portes fermées, clefs dans la porte.</i></p> <p><i>On a vu des choses abominables...</i></p>
<p>0:48:45 Interviewer</p>	<p><i>Comme quoi?</i></p>
<p>0:48:47 Claude Bois</p>	<p><i>Où est-ce que des enfants sont demeurés dans des chambres pendant des mois. Embarrés pendant des mois! On est au Québec en 2004 là. On a vu ça en 2002-2003 là! Où est-ce que des éducateurs, dans un cadre de l’exercice d’un pouvoir (parce que c’est certain, ils ont un pouvoir très important), et</i></p>

	<i>maintenaient des enfants parce que l'enfant leur avait fait une grimace, et puis (euh) bon ben c'est un autre 24 heures en isolement dans ce genre de situations-là.</i>
0:50:24 Claude Bois	<i>J'ai vu des salles d'isolement dans lesquelles j'aurais jamais voulu y être pendant 5 minutes. Et moi, j'ai toujours dit : pour évaluer, (inaudible) ce genre de pièce là, ben de mettre peut-être des adultes là-dedans, des dirigeants, des gens responsables et des enfermer là pendant une demie heure.</i>

Transcript of Paul Arcand's documentary *Voleurs d'enfance*, 2005, **Exhibit P-12**, full documentary available at <https://www.youtube.com/watch?v=lfj6IIDJ7F0>.

- 3.31. Paul Arcand's documentary also features the then Minister of Health and social services, who, while on a group visit of a solitary confinement cell used at a reception centre, asked to be let out after 1 minutes and 15 seconds, despite her being then accompanied by other adults.
- 3.32. In 2017, the CDPDJ released a report on the use of solitary confinement and restraint at reception centres, disclosing that for a 3 year period ranging from 2013 to 2016, 3132 children have been subject to solitary confinement in 22665 instances and 4136 children have been subject to restraint in 32287 instances, as it appears from the *Étude sur l'utilisation de l'isolement et de la contention au sein des missions réadaptation jeunesse des CISSS et CIUSSS du Québec, ainsi que dans certains établissements non fusionnés*, CDPDJ, May 2017, **Exhibit P-13**, Annexe 1.
- 3.33. These events occurred at all of the Integrated health and social services centres, the Regional Board and the CBHSSJB named as defendants herein and defined below.
- 3.34. A study conducted by Dre Delphine Collin-Vézina and Dre Alexandra Matte-Landry indicates that approximately 50 % of solitary confinement, removal and restraint measures imposed on children at reception centres relate to situations where a child does not represent a danger to himself or to others and, hence, are being illegally used as disciplinary measures:

«Delphine Collin-Vézina supervise présentement les travaux de la neuropsychologue Alexandra Matte-Landry. Ensemble, elles ont pu étudier de près un grand nombre d'interventions. Dans un peu moins de la moitié des cas étudiés, les contentions, les mesures d'isolement et de retrait « sont utilisées pour protéger l'enfant lui-même ou pour protéger autrui, alors que ces motifs devraient représenter la presque totalité des cas. Mais souvent, ces mesures sont prises parce que l'enfant ne suit pas les règles, parce qu'il ne participe pas aux activités ou, plus tristement encore, parce qu'il revient d'une fugue.»

DPJ: les enfants risquent d'être traumatisés de nouveau par le système, Louise Leduc, *La Presse*, November 5th, 2019, **Exhibit P-14**.

- 3.35. According to Dre Delphine Collin-Vézina, this situation is all the more alarming considering that children who are being subject to these measures are especially vulnerable given their prior trauma:

« Il faut absolument éviter que le système “retraumatise” l’enfant, que ce soit par des décisions prises sans entendre le point de vue de l’enfant ou par un placement qui implique de nouvelles expériences traumatiques », a-t-elle témoigné devant la Commission spéciale sur les droits des enfants et la protection de la jeunesse. (...)

Dre Collin-Vézina a évoqué une étude qu’elle a publiée en 2011 et qui a été menée auprès de 53 jeunes de 14 à 17 ans hébergés dans des centres de réadaptation. Les jeunes étaient invités à dire s’ils avaient vécu une agression sexuelle, une agression physique, une agression psychologique, une négligence physique ou psychologique. « La quasi-totalité des jeunes sondés a rapporté avoir vécu un de ces événements traumatiques et un jeune sur quatre a rapporté en avoir vécu quatre ou cinq. Mais quand on allait voir pourquoi ces adolescents étaient placés, près de 90 % l’étaient pour des troubles de comportement. »”.

DPJ: les enfants risquent d'être traumatisés de nouveau par le système, Louise Leduc, *La Presse*, November 5th, 2019, Exhibit P-14.

- 3.36. Since the initial filing of this application, further evidence emerged in the context of the public hearings of the Special Commission on the Rights of the Child and Youth Protection presided by Régine Laurent (the “**Laurent Commission**”).
- 3.37. Indeed, on October 22, 2019, the very first day of the public hearings of the Laurent Commission, nine young people testified regarding the debilitating treatments inflicted upon them at the reception centres and the resulting consequences.
- 3.38. For instance, Camille Shaink, now 25 years old, who spent 13 years at the Cité-des-Prairies reception centre, testified as follows:

“C’est quasiment aussi pire que de mettre une caméra dans les toilettes pour enfants. Le sentiment de sécurité est totalement détruit et apporte un certain dégoût face à la DPJ. Les personnes se sentent prisonnières et emprisonnées en permanence comme dans une prison. Le fort de sentiment de séquestration, barreaux aux fenêtres et grillage blindé, fenêtres incassables, portes barrées de l’extérieur, les intervenants, comme des gardiens de prison qui ont les clés pour te faire sortir de ta prison, même les clés qui provoquent un traumatisme dans beaucoup de cas... les mêmes clés, pardon.

Car c'est pas pour se faire enfermer par-dessus, car oui, la séquestration est permanente, alors que le jeune ne voit pas la différence entre sa chambre et une salle d'isolement. Tu finis un jour par te dire : je n'ai plus rien à perdre, je ne peux rien faire... je peux faire les pires choses, ça ne peut pas être pire qu'ici, de toute façon.

Les jeunes font plus de crises et de bêtises graves, car ils savent qu'ils n'ont plus rien à perdre. Qu'est-ce qu'on peut faire de pire que de les enfermer quand ils le sont déjà en permanence. Ceci fait référence à Cité des Prairies, où est-ce que j'ai vécu très longtemps, que les portes étaient malheureusement fermées, les barbelés aux clôtures empêchaient les jeunes de la Protection de la jeunesse. Je n'étais pas en milieu carcéral jeunesse, désolée, j'ai oublié le nom, jeunes contrevenants, merci. J'étais vraiment en Protection de la jeunesse et franchement j'ai été à Pinel plus tard, et c'était la même chose. Même je trouvais que Pinel c'était mieux, c'était plus ouvert, et c'est une prison carcérale.

La recommandation serait de permettre aux jeunes de se développer normalement et d'avoir plus de permissions et de liberté de vie. Il ne faut pas oublier que c'est rarement de leur faute s'ils sont enfermés dans les centres jeunesse. Il faut assouplir le code de vie qui ne permet aucun écart.

Oui, c'est normal à l'école d'avoir des cours d'éducation physique, mais de là à être forcé, même à l'extérieur à des activités parascolaires sous peine d'emprisonnement pour insubordination dans les locaux qui sont censés protéger les personnes des blessures qu'elles pourraient faire aux autres ou à lui-même, illustre parfaitement le bris des droits de l'homme.

(...)

On prend la parole aujourd'hui, et j'espère qu'on va nous écouter. Le bris des droits de l'homme, la manipulation mentale de masse, l'exploitation d'enfants, c'est la torture d'enfants, de torture et de la séquestration que la DPJ a créés ces quarante (40) dernières années et qui fait plus de victimes innocentes que de bienfaits, c'est pas peu dire l'état d'urgence qu'il faut que ça change. La recommandation est simple et vous l'avez finalement comprise : il est temps d'écouter ce qu'on a à vous dire et d'agir en conséquence, ce que vous n'avez jamais fait en quarante (40) ans.

Et vous voilà aujourd'hui la corde autour du cou quand fabriquer du matériel de vos erreurs causées par le fait que vous avez fermé vos oreilles à la population et à ce que les jeunes vous disaient. C'est juste là que vous comprenez qu'il est temps de réagir. La recommandation, c'est de vous souvenir que la corde ne disparaîtra plus jamais.

C'est à vous de voir si vous voulez choisir de rester pendu au bout de cette corde et vous étouffer avec ou marcher dessus avec nous pour garder l'équilibre que vous venez enfin de comprendre qu'il est important. ”

Transcript of the Laurent Commission hearing held on October 22, 2019, **Exhibit P-15**, p. 32, line 9 to p. 34, line 9, and p. 35, line 24 to p. 36, line 23.

- 3.39. Two other young ladies, Jessica Côté-Guimond and Émilie Roy, testified as follows regarding solitary confinement practices inflicted upon them as children at the reception centres:

“Mme JESSICA CÔTÉ-GUIMOND :

Une autre de nos recommandations, en fait, ce serait de modifier en profondeur les conditions de vie en centres de réadaptation. Ce n'est pas des milieux de vie qui sont normatifs, et il est important d'améliorer ces conditions de placements afin de limiter la domination de pouvoir du système. Les mesures de contrôle sont parfois abusives. Faute de personnel, parfois on va enfermer les jeunes dans les chambres afin de pouvoir mieux gérer le plancher. C'est des pratiques qui sont absolument abusives et qu'on doit mettre fin. Ce n'est pas vrai qu'un groupe complet de douze (12) jeunes en unité de vie doivent écoper pour un problème de comportement d'un seul jeune, et donc, nous devons mettre sur pied des mesures appropriées.

Mme ÉMILIE ROY :

En lien avec cette recommandation, en fait, dans les centres jeunesse, il y a ce qu'on appelle des salles d'isolement. Alors, les salles d'isolement, il y a celles qui vraiment sont considérées comme un isolement aux yeux des centres jeunesse, donc une salle capitonnée de six pieds par six pieds (6 pi x 6 pi) gros maximum, une porte avec aucune poignée. Tu ne peux pas sortir. C'est eux qui ont les clés. Avec une petite fenêtre puis un rideau. Ils peuvent vous laisser là-dedans... J'ai déjà passé plusieurs jours dans le noir, entre autres. En fait, ces mesures-là en centres jeunesse devraient fortement être révisées, parce que l'utilisation d'un isolement selon l'ONU, en fait, la définition de la torture à travers l'isolement selon l'ONU est que l'utilisation punitive d'un isolement est considérée comme une torture et non une utilisation préventive.

Les centres jeunesse souvent en font une utilisation punitive. À titre d'exemple, j'avais un plan d'action en centre jeunesse. Dès que j'avais un... J'avais beaucoup de trouble d'automutilation. Dès que je m'automutilais, ils m'envoyaient quarante-huit (48) heures en isolement. Alors, je passais quarante-huit (48) heures dans une salle d'isolement. Si ça allait bien, en fait, j'avais le droit d'avoir la porte ouverte après une heure. Mais dès qu'il y avait une augmentation de

l'anxiété, selon le point de vue de l'intervenant, la porte était refermée.

Donc, ces mesures-là doivent être, je m'excuse, doivent être absolument révisées, parce que, en fait... Tantôt Annie parlait des traumatismes. Les clés, c'était pour moi. Je tiens quand même à vous montrer. Ce bruit-là, c'est le seul bruit que tu entends lorsque tu es en isolement. Et aujourd'hui, d'avoir des clés sur moi me permet d'avoir un contrôle, en fait. Psychologiquement, ça me tient en contrôle. J'ai le pouvoir. C'est moi qui peux ouvrir les portes. En fait, même en arrivant lors de la fouille, les clés ont été égarées dans mon sac, et, en fait, merci à ma collègue qui m'a aidée, parce que j'étais en train, une crise de panique, j'en avais besoin. Alors, ces traumatismes-là peuvent paraître peut-être exagérés, mais un enfant qui est mis dans des isolements, c'est des mesures de torture. Je peux comprendre le principe si le jeune est à risque, avant une évaluation, il peut y avoir lieu. Mais après l'acte, l'enfant est calme malheureusement.

Puis il y a également ce qu'il y a dans la recommandation. Excusez, j'ai un petit peu... Ce qu'il y a dans la recommandation, c'est de s'assurer qu'il y ait une concertation avant l'envoi du jeune en isolement. Donc, que ce ne soit pas un seul intervenant qui peut prendre la décision en appelant un cadre, parce que cet intervenant-là fait une interprétation de la situation à travers son parcours personnel et professionnel. Donc, chaque intervenant réagit de manière différente. Il y a des intervenants qui vont être plus tolérants. Et il y a des intervenants qui vont être plus forts face à certaines situations. Donc, il devrait y avoir vraiment une concertation avant d'y avoir contact pour mettre un jeune en isolement. Et si vraiment, il y a l'obligation d'utiliser les principes d'isolement, c'est de s'assurer qu'ils sont en respect des droits des jeunes et les droits de l'homme, et que lorsque le jeune sera libéré, et c'est le terme « libéré » de la salle d'isolement, qu'il y ait une évaluation psychologique prévue avec ce jeune-là pour vérifier les traumatismes parce que ces traumatismes-là peuvent survivre toute une vie.

Aujourd'hui, je suis invalide. J'ai une fibromyalgie causée par les chocs émotionnels que ces isolements ont faits. Donc, être mis en isolement a détruit le restant de ma vie. Alors, c'est une recommandation. J'ai mis un peu de personnel. C'était le but pour faire comprendre le principe des isolements en centres jeunesse qui doivent être révisés de A à Z entièrement."

Transcript of the Laurent Commission hearing held on October 22, 2019, **Exhibit P-16**, p. 62, line 8 to p. 66, line 8.

- 3.40. Emilie Roy further testified regarding abusive medication of the children at the reception centres:

“Mais, pour revenir au niveau des médicalisations, et j'utilise vraiment le termes « médicalisations » dans les centres jeunesse. La problématique, en fait, c'est qu'on va donner un médicament pour cadrer le jeune dans le moule. Je vais reprendre l'expression de Samuel. Donc, c'est pas le jeune qui a une problématique en tant que telle, mais c'est qu'on veut qu'il cadre. (...)

Donc, on continue de bourrer nos enfants de médicaments (...) Je veux dire, est-ce que vous comprenez que c'est horrible.(...)

Mme LISE LAVALLÉE, commissaire :

On parle de médicaments, médicamentations et vous êtes neuf jeunes ici. Dans les neuf, combien ont été médicamentés?

Mme ÉMILIE ROY :

La majorité.

Q. [39] Donc, c'est quand même, c'est quand même beaucoup là. Donc, on vous médicamente jeune alors que vous avez vécu de l'abandon, une perte de lien d'attachement puis il y a beaucoup de choses des fois qui expliquent, mais... en tout cas. ”

Transcript of the Laurent Commission hearing held on October 22, 2019, **Exhibit P-17**, p. 124, line 18 to 25, p. 125, line 16 to 17, p. 125, line 19 to 20 and p. 128, line 24 to p. 129, line 8.

- 3.41. On the second day of public hearings of the Laurent Commission, another young man, Alexandre Bulon-Biciola, now in his twenties, testified as follows with respect to solitary confinement and similar practices at reception centres:

“Puis il y avait aussi beaucoup de... d'interventions non justifiées, qui étaient souvent basées sur juste : ah, tu fais pas comme nous on veut le faire, ça fait qu'on va intervenir sur toi. Mais ils ne m'expliquaient pas pourquoi. C'était juste : tu fais pas comme nous autres, tu fais pas comme que nous on veut que tu le fasses. Ça fait qu'on va t'arrêter puis on va te mettre en isolement. L'isolement c'est pas la bonne chose à faire. Ça n'a jamais été...du moins pour moi, ça n'a jamais été une bonne chose à faire, ça me rendait plus nerveux, plus...plus en colère à certains points, c'est vraiment envers les éducateurs qu'il y avait en centre jeunesse. Oui. Puis c'est ça. (...)

Des exemples, j'en ai, oui. Un qui n'est pas relié à moi, mais que...qui est relié avec un gars que j'ai connu en centre justement. Il voulait écouter un match de hockey, ce qu'il y a de plus banal, là. Puis il s'est fait envoyer en isolement parce qu'il voulait écouter le match de hockey. Parce que l'intervenante lui disait « non, on a une période»...ils appelaient ça la période...je ne pense pas d'isolement, mais de...où est-ce qu'ils s'échangeaient, le changement de « shift »

où est-ce qu'ils s'échangeaient des informations puis tout, qui est une période de genre quarante-cinq minutes (45 min) où est-ce que les jeunes passent quarante-cinq minutes (45 min), voire un heure (1h) dans leur chambre. C'est long, c'est long. Puis lui, il ne voulait pas, il voulait écouter le match de hockey. L'intervenant a fait : « Bien écoute, si tu ne vas pas dans ta chambre, moi, j'appelle les agents de sécurité qui vont venir te chercher puis tu vas aller en isolement ». Ce qui est arrivé.

Même moi, ça m'est arrivé aussi d'aller en isolement pour...pour rien ou presque. Je veux dire...ah, je vais aux toilettes, juste ça, des fois c'est un défi aller aux toilettes parce que quand t'es dans la période de changement de « shift » il faut que tu demandes la permission pour aller aux toilettes, ce qui est un besoin naturel. Je veux dire pourquoi je demanderais la permission pour aller aux toilettes? Puis quant t'écoutais pas, bien t'étais...t'avais une période de retrait du groupe. (...)

Beaucoup, beaucoup de...l'isolement était un...un choix facile. Puis je pense qu'il y a beaucoup, beaucoup d'intervenants qui prenaient ce choix facile-là. (...)

Puis...puis c'est ça, durant ces trois années-là il y a eu beaucoup de choses qui se sont passées. J'ai même...j'ai même eu une tentative de suicide à un moment donné, tellement que j'étais plus capable.”

Transcript of the Laurent Commission hearing held on October 23, 2019, **Exhibit P-18**, p. 255, line 22 to p. 257, line 22, p. 258, lines 19 to 22 and p. 259, lines 11 to 15.

- 3.42. Several other victims and their parents also testified before the Laurent Commission with respect to destructive measures inflicted upon children at the reception centres, including solitary confinement and abusive medication, as it appears from their testimonies:

Transcript of the Laurent Commission hearing held on October 23, 2019, **Exhibit P-19**, p. 75, line 3 to 23, p. 98, line 2 to p. 100, line 10, p. 100, line 14 to p. 102, line 7;

Summary of the testimony of Olivier Gosselin, **Exhibit P-20**; and

Transcript of the Laurent Commission hearing held on November 7, 2019, **Exhibit P-21**, p.20, line 22, to p.21, line 9 and p.21, line 22 to p.22, line 17.

- 3.43. In addition to the victims and their parents, experts and other stakeholders who testified before the Laurent Commission deplored the punitive, repressive and prison-like approach prevailing at Québec reception centres and systematically referred to solitary confinement and random medication as manifestations of such approach, as it appears from the testimonies of Jade Bourdage, Claudie Otis, Caroline Dufour and Valentine Fau, filed jointly as **Exhibit P-22**.

- 3.44. The evidence is overwhelming : the rights of the children held at Québec reception centres (also now known as “rehabilitation centres” or “youth centres”) have been and continue to be systematically violated, notwithstanding the fact that the government has been put on notice of such violations on multiple occasions spanning several decades.
- 3.45. Recently, in the wake of the Commission Laurent, Rima Elkouri, in an article titled “*Les enfants « tablettés »*” published on November 3rd, 2019 in *La Presse*, **Exhibit P-23**, wrote about Gillian Cosgrove’s journalistic investigative process at Notre-Dame de Laval and the atrocities she witnessed, which led to the Batshaw Commission, as described above.
- 3.46. Referring to Eleanor Lindsay’s story and the stories of too many other young people who have been and are still being physically and psychologically injured in reception centres, Rima Elkouri concluded as follows:

“Malheureusement, encore aujourd’hui, l’histoire semble se répéter, comme en font foi les premiers témoignages entendus par la commission Laurent sur la protection de la jeunesse. De jeunes adultes ayant vécu en centre jeunesse ont fait état de recours à l’isolement abusif qui s’apparente à de la « torture », d’usage excessif de médicaments pour les garder dans le rang (...) Voilà un cas où, selon les témoignages accablants recueillis, l’État a failli à son devoir de protection d’enfants vulnérables en dépit du fait qu’une enquête journalistique doublée d’une commission d’études semblable à la commission Laurent avaient sonné l’alarme et conduit à une réforme du système de protection de la jeunesse. ”

Les enfants « tablettés », Rima Elkouri, *La Presse*, November 3rd, 2019, Exhibit P-23.

- 3.47. Since the filing of these proceedings, the undersigned counsel have been contacted in confidence and subject to the duty of professional secrecy by more than (...) 470 other victims. While some of these victims are still not ready to provide the details of the abuses that they suffered at the reception centres, (...) 206 of these victims specifically reported having been abused by employees, subordinates or agents of (...) 94 different reception centres located in at least (...) ten (10) administrative regions throughout the Province of Québec, namely Montréal, Outaouais, Laval, Estrie, Abitibi-Témiscamingue, Montérégie, Capitale-Nationale, Laurentides, Lanaudière and Saguenay–Lac-Saint-Jean, and over a period of time spanning the entire proposed class action period. The main types of abuses specifically reported by these (...) 206 victims are as follows (most of these victims reporting having been subject to several types of abuses):

<u>Type of abuse</u>	<u>(...) Number of reports *</u>	<u>Number of victims reporting that type of abuse</u>
Sexual abuses	(...) <u>109 reports by victims</u>	<u>87 victims</u>

Assault / physical abuses	(...) 146 reports by victims	101 victims
(...) Use of medication for disciplinary purposes	(...) 33 reports by victims	27 victims
(...) Deprivation of residual liberty / confinement / solitary confinement	(...) 215 reports by victims	134 victims
(...) Use of cigarettes for disciplinary purposes	(...) 89 reports by victims	65 victims
Other abuses, including psychological abuses	(...) 100 reports by victims	64 victims

*the number of reports exceeds the number of victims because some victims reported having suffered a given type of abuse at more than one reception centre.

3.48. In addition, the undersigned counsel are being regularly contacted by newly forthcoming victims and receive new reports of abuses endured by them at the reception centres.

3.48.1 The abuses reported by the victims span the entire proposed class action period, including the period preceding the specific coverage of the Batshaw Report, Exhibit P-3.

3.48.2 For instance, in 1949, an eight-year-old girl named L.P.L. was placed at the Children’s Home in Lachine. During her stay at the Children’s Home from 1949 until 1953, L.P.L. was regularly beaten by a staff member as a punishment for wetting her bed. L.P.L. was also not allowed to drink water at meals. Further, on a regular basis, as punishment for misbehaving, L.P.L. and other children were put in isolation in a dark, small closet and forced to sit on a tiny wooden stool, which was both scary and painful. When L.P.L. was caught sitting on the closet floor instead of the wooden stool, she was stricken on the buttocks with a “cat o’ nine tails”, i.e. a rubber tread cut into nine strips. This was sadistic and extremely painful. When L.P.L. threw up, she was forced to eat her own vomit.

3.48.3 In 1953, L.P.L. was transferred to Summerhill Home for Girls in Montreal. During her stay at this institution from 1953 until 1957, she was put in solitary confinement on several occasions for trivial reasons such as not concentrating hard enough in Sunday school.

3.48.4 Another putative member, Victor Malarek, was placed at Weredale House between January 1959 and June 1962 as a youth protection case. There was an attempt by a member of the staff to sexually abuse him. Victor Malarek resisted, which led to him being severely beaten by the staff member. He reports that physical abuse and severe beatings by staff with fists, belts, wet running shoes and sticks at Weredale House were omnipresent and that the staff members were sadistic. As an example, on at least six occasions, Victor Malarek was ordered to drop his pants

and underwear and to kneel on a foot stool in a room called the "Clinic". Once in this humiliating position, he would be beaten with a leather belt. The pain was excruciating, and the beating led to Victor Malarek having huge black and blue welts on his backside. The suffering was compounded by the fact that prior to Victor Malarek being beaten at the Clinic, the staff made him stand for hours under the clock (a specific location at Weredale House), waiting to be admitted to the Clinic for the beatings described above. Standing under the clock while anticipating what was to come was a cause of agony for Victor Malarek and his fellow Weredale House boys.

3.48.5 In 1965, Victor Malarek was admitted to St-Vallier as a young offender. At this institution, he was held in solitary confinement for disciplinary purposes for 3 days in a cell similar to a jail cell in the subbasement of the institution. The cell was all cement, with a bench. He had to sleep on the floor and was kept in complete darkness all the time, except when the meals came.

3.48.6 As another example, in 1967, an eleven-year-old boy named K. V. was placed in Montreal's Weredale House. During his stay he was thrown down three flights of stairs by a staff member. In the first years of his stay, before 1970, he endured physical, sexual and verbal abuse during his stay. He complained to another staff member who, instead of helping him, abused him as well.

3.48.7 Multiple times during his stay at Montreal's Weredale House, including between 1967 and 1970, K.V. was punished for trivial "offenses" such as having used bad words or being naughty, by being ordered to sit for hours in a confined and isolated space under a flight of stairs leading to the basement.

3.49. Thus, as Eleanor Lindsay, boys and girls who (...) have been deprived of residual liberty and abused at the reception centers (...) have endured tremendous physical and psychological pain and suffering and, in many cases, the adults they have become must confront severe consequences of these abuses to this day.

3.50. The profound and long-lasting damaging effects of solitary confinement, especially when inflicted on children, had already prompted experts to qualify this measure back in 1975 as "barbaric, unjustifiable and destructive", as it appears from the article titled "*Solitary method 'barbaric, destructive,' experts warning*", Angela Ferrante, *Montreal Gazette*, January 3rd, 1975, **Exhibit 24**.

3.51. More specifically, Dr. Sharon Shalev, a researcher specializing on solitary confinement and a Fellow of the Mannheim Centre for Criminology at the London School of Economics, categorizes as follows the reported consequences of solitary confinement:

"Physiological effects

Although psychological effects are most common and usually dominant, physiological effects are nevertheless commonly reported. Some of these may be physical manifestations of psychological stress, but the lack of access to fresh air and sunlight and long periods of inactivity are likely also to have physical consequences. Grassian and Friedman (1986) list gastro-intestinal,

cardiovascular and genito-urinary problems, migraine headaches and profound fatigue. Other signs and symptoms recorded by the some of the studies reviewed above are:

- *Heart palpitations (awareness of strong and/or rapid heartbeat while at rest)*
- *Diaphoresis (sudden excessive sweating)*
- *Insomnia*
- *Back and other joint pains*
- *Deterioration of eyesight*
- *Poor appetite, weight loss and sometimes diarrhea*
- *Lethargy, weakness*
- *Tremulousness (shaking)*
- *Feeling cold*
- *Aggravation of pre-existing medical problems.*

Psychological effects

The most widely reported effects of solitary confinement are its psychological effects. These will vary with the pre-morbid adjustment of the individual and the context, length and conditions of confinement. The experience of previous trauma will render the individual more vulnerable, as will the involuntary nature of confinement as punishment, and confinement that persists over a sustained period of time. Initial acute reactions may be followed by more chronic symptoms if the confinement persists. While the majority of those held in solitary confinement will report some form of disturbance, there may be a small number of prisoners who show few signs and symptoms and may be more resilient to the negative effects of solitary confinement. Symptoms occur in the following areas and range from acute to chronic. Anxiety, ranging from feelings of tension to full blown panic attacks:

- *Persistent low level of stress;*
- *Irritability or anxiousness;*
- *Fear of impending death;*
- *Panic attacks;*
- *Depression, varying from low mood to clinical depression;*
- *Emotional flatness/blunting – loss of ability to have any ‘feelings’, emotional lability (mood swings);*
- *Hopelessness;*
- *Social withdrawal; loss of initiation of activity or ideas; apathy; lethargy;*
- *Major depression;*

- *Anger, ranging from irritability to full blown rage. Irritability and hostility;*
- *Poor impulse control;*
- *Outbursts of physical and verbal violence against others, self and objects;*
- *Unprovoked anger, sometimes manifesting as rage. Cognitive disturbances, ranging from lack of concentration to confusional states;*
- *Short attention span;*
- *Poor concentration;*
- *Poor memory;*
- *Confused thought processes; disorientation. Perceptual distortions, ranging from hypersensitivity to hallucinations;*
- *Hypersensitivity to noises and smells;*
- *Distortions of sensation (e.g. walls closing in);*
- *Disorientation in time and space;*
- *Depersonalisation / derealization;*
- *Hallucinations affecting all five senses, visual, auditory, tactile, olfactory and gustatory (e.g. hallucinations of objects or people appearing in the cell, or hearing voices when no-one is actually speaking);*
- *Paranoia and Psychosis, ranging from obsessional thoughts to full blown psychosis;*
- *Recurrent and persistent thoughts (ruminations) often of a violent and vengeful character (e.g. directed against prison staff);*
- *Paranoid ideas – often persecutory;*
- *Psychotic episodes or states: psychotic depression, schizophrenia.”*

A Sourcebook on Solitary Confinement, Sharon Shalev, Mannheim Centre for Criminology at the London School of Economics, January 2008, **Exhibit P-25**, pp. 15 to 19.

- 3.52. In addition to constitute blatant violations of children’s fundamental and constitutional rights recognized by Québec and federal municipal (internal) laws, including the Canadian Charter of Rights and Freedoms, the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c 11, and the Charter of Human Rights and Freedoms, CQLR c C-12, the use of closed and solitary confinement, even in a juvenile justice context, is also unanimously condemned by international organizations, including the United Nations.
- 3.53. For instance, Rule 67 of the 1990 United Nations Rules for the Protection of Juveniles Deprived of Their Liberty, filed as **Exhibit P-26**, expressly states:

“67. All disciplinary measures constituting cruel, inhuman or degrading treatment shall be strictly prohibited, including corporal punishment, placement in a dark cell, closed or solitary confinement or any other punishment that may compromise the physical or mental health of the juvenile concerned.”

- 3.54. Further, the United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment stated that subjecting children to solitary confinement of any duration amounts to cruel, inhuman or degrading treatment, which violates article 7 of the International Covenant on Civil and Political Rights and article 16 of the Convention against Torture:

“Thus the Special Rapporteur holds the view that the imposition of solitary confinement, of any duration, on juveniles is cruel, inhuman or degrading treatment and violates article 7 of the International Covenant on Civil and Political Rights and article 16 of the Convention against Torture.”

Report by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, United Nations, August 5th, 2011, **Exhibit P-27**, p. 21; International Covenant on Civil and Political Rights, **Exhibit P-28** and Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, **Exhibit P-29**.

Also see, the United Nations Convention on the Rights of the Child, **Exhibit P-30**.

- a) The Attorney General of Québec

- 3.55. Since the reception centers are public institutions and since the detention and abuses occurred while the Class Members were entrusted to the care of the State, the latter is liable to the Class Members for all the resulting compensatory damages.
- 3.56. Given the nature of the abuses and of the rights violated, the State is also liable to the Class Members for punitive damages.

- b) The integrated health and social services centres

- 3.57. Over the years, youth reception centres went through a series of amalgamations in the context of the changes to the structure of the health and social services system in Québec.
- 3.58. On October 1st, 1950, *An Act respecting Youth Protection Schools*, S.Q. 1950, ch. 11, came into force, amalgamating reformatory and industrial schools and converting same into youth protection schools, which are the predecessors of the youth reception centres.

- 3.59. The latest round of amalgamations of operating youth reception centres occurred pursuant to *An Act to modify the organization and governance of the health and social services network*, Chapter O-7.2, in April 2015.
- 3.60. As a result of these amalgamations, most of Québec youth reception centres have been integrated into the following institutions:
- Centre intégré de santé et de services sociaux du Bas-Saint-Laurent;
 - Centre intégré universitaire de santé et de services sociaux du Saguenay-Lac-Saint-Jean;
 - Centre intégré universitaire de santé et de services sociaux de la Capitale-Nationale;
 - Centre intégré universitaire de santé et de services sociaux de la Mauricie-et-du-Centre-du-Québec;
 - Centre intégré universitaire de santé et de services sociaux de l'Estrie – Centre hospitalier universitaire de Sherbrooke;
 - Centre intégré universitaire de santé et de services sociaux de l'Ouest-de-l'Île-de-Montréal;
 - Centre intégré universitaire de santé et de services sociaux du Centre-Sud-de-l'Île-de-Montréal;
 - Centre intégré de santé et de services sociaux de l'Outaouais;
 - Centre intégré de santé et de services sociaux de l'Abitibi-Témiscamingue;
 - Centre intégré de santé et de services sociaux de la Côte-Nord;
 - Centre intégré de santé et de services sociaux de la Gaspésie;
 - Centre intégré de santé et de services sociaux de Chaudière-Appalaches;
 - Centre intégré de santé et de services sociaux de Laval;
 - Centre intégré de santé et de services sociaux de Lanaudière;
 - Centre intégré de santé et de services sociaux des Laurentides;
 - Centre intégré de santé et de services sociaux de la Montérégie-est;

(the « **Integrated health and social services centres** »).

- 3.61. Since the Integrated health and social services centres acquired all the rights and obligations of amalgamated youth reception centres pursuant to the *Act respecting health services and social services*, S.R.Q. Chapter S-4.2, they are liable to the Class Members for the damages resulting from the faults alleged in this application.
 - c) The Nunavik Regional Board of Health and Social Services
 - 3.62. The Nunavik Regional Board of Health and Social Services (the “**Regional Board**”) has been established by the Government of Québec pursuant to the *Act respecting health services and social service*, S.R.Q. Chapter S-4.2, on May 25, 1994.
 - 3.63. The Regional Board operates youth reception centres located within its territorial jurisdiction and, hence, is liable to the Class Members for the damages resulting from the faults allegedly committed at these reception centres.
 - d) Cree Board of Health and Social Services of James Bay
 - 3.64. The Cree Board of Health and Social Services of James Bay (the “**CBHSSJB**”) has been established by the Government of Québec pursuant to the *Act respecting health services and social service*, S.R.Q. Chapter S-4.2, on April 20, 1978, in order to provide health and social services to the nine communities of the Cree Territory of James Bay.
 - 3.65. Under the *Act respecting health services and social services for Cree Native persons*, S.R.Q. Chapter S-5, the CBHSSJB operates youth reception centres located within its territorial jurisdiction and, hence, is liable to the Class Members for the damages resulting from the faults allegedly committed at these reception centres.
4. **The composition of the (...) Residual Liberty Deprived Children Class and of the Abused Children Class makes it difficult or impracticable to apply the rules for mandates to take part in judicial proceedings on behalf of others or for consolidation of proceedings, in that:**
- 4.1. The Batshaw Report states that in year 1975 alone, five thousand children were held in youth reception centers, Exhibit P-3, p. xvii.
 - 4.2. Since the facts described in sections 2 and 3 above have taken place over a period of several decades at numerous reception centers throughout the province of Québec and likely continue to this day, the Class Members probably count by tens of thousands.
 - 4.3. The nature of the abuses inflicted on these children and the ensuing traumas make it extremely difficult for individual plaintiffs to come forward and to institute individual legal proceedings.
 - 4.4. In these circumstances, it is impossible or, at the very least difficult and impracticable, to apply the rules for mandates to take part in judicial proceedings on behalf of others or for consolidation of proceedings, while assuring access to justice that the victims deserve.

5. **The Plaintiff seeks to have the following questions of fact and law, which are identical, similar or related, decided by this class action:**

- 5.1. Have the following practices occurred at the reception centers :
 - 1) (...)
 - 2) (...) deprivation of residual liberty consisting in preventing the (...) Residual Liberty Deprived Children Class members from leaving (...) a common area?
 - 3) (...) deprivation of residual liberty consisting in locking up the (...) Residual Liberty Deprived Children Class members in their cells?
 - 4) (...) deprivation of residual liberty consisting in locking up the (...) Residual Liberty Deprived Children Class members in a cell?
 - 5) solitary confinement of the (...) Residual Liberty Deprived Children Class members?
 - 6) assault or other physical abuses of the Abused Children Class members?
 - 7) sexual assault or other sexual abuses of the Abused Children Class members?
 - 8) (...) use of medication for disciplinary purposes on the Abused Children Class members?
 - 9) (...) use of cigarettes for disciplinary purposes in connection with the Abused Children Class members?
 - 10) other abuses, including psychological abuses, of the Abused Children Class members?
- 5.2. Do all or some of the impugned practices listed at paragraph 5.1 amount to a fault engaging the liability of the Defendants?
- 5.3. What type of damages are common to the (...) Residual Liberty Deprived Children Class as a result of the impugned practices?
- 5.4. What type of damages are common to the Abused Children Class as a result of the impugned practices?
- 5.5. Are (...) Residual Liberty Deprived Children Class members entitled to punitive damages?
- 5.6. What is the amount of such punitive damages for the purpose of collective recovery?
- 5.7. Are Abused Children Class members entitled to punitive damages?
- 5.8. What is the amount of such punitive damages for the purpose of collective recovery?
- 5.9. What are the factors common to the Class Members with respect to the impossibility to act?

6. **The nature of the action that the Plaintiff seeks to institute is**

6.1. An action in compensatory and punitive damages.

7. **The Plaintiff seeks the following conclusions on the merits on the class action:**

GRANT the Plaintiff's action;

CONDEMN the Defendants to pay to the Plaintiff, at the recovery stage, the amount of \$ 500,000 on account of non-pecuniary damages;

CONDEMN the Defendants to pay to the Plaintiff, at the recovery stage, an amount to be determined on account of pecuniary damages;

CONDEMN the Defendants to pay to the Plaintiff, at the collective recovery stage, an amount to be determined on the account of punitive damages;

GRANT the Plaintiff's action on behalf of all Class Members;

CONDEMN the Defendants to pay to each member of the (...) Residual Liberty Deprived Children Class an amount on account of *non-pecuniary damages*, the quantum of such amount to be determined in accordance with parameters to be established at the collective issues stage, including, without limitation, for pain, suffering, loss of enjoyment of life and other moral damages;

CONDEMN the Defendants to pay to each member of the (...) Residual Liberty Deprived Children Class an amount on account of *pecuniary damages*, the quantum of such amount to be determined in accordance with parameters to be established at the common issues stage, including, without limitation, for loss of income, therapy and counselling fees;

CONDEMN the Defendants to pay to each member of the *Abused Children Class* an amount on account of *non-pecuniary damages*, the quantum of such amount to be determined in accordance with parameters to be established at the common issues stage, including, without limitation, for pain, suffering, loss of enjoyment of life and other moral damages;

CONDEMN the Defendants to pay to each member of the *Abused Children Class* an amount on account of *pecuniary damages*, the quantum of such amount to be determined in accordance with parameters to be established at the common issues stage, including, without limitation, for loss of income, therapy and counselling fees;

CONDEMN the Defendants to pay to the members of the (...) Residual Liberty Deprived Children Class an amount to be determined on account of *punitive damages*, and **ORDER** the collective recovery of such amount;

CONDEMN the Defendants to pay to the members of the *Abused Children Class* an amount to be determined on account of *punitive damages*, and **ORDER** the collective recovery of such amount;

THE WHOLE with interest and additional indemnity provided for in the *Civil Code of Québec* calculated from the date of the service of the *Application for authorization to institute a class action and obtain the status of representative*, and with costs, including costs of all experts, notices, fee and expenses of the administrator of the plan of distribution of the recovery in this action.

8. The Plaintiff is in a position to properly represent the class members.

- 8.1. Eleanor Lindsay found the courage to come forward and to publicly expose traumatic treatments inflicted upon her and the other children at the reception centers.
- 8.2. She also took the initiative to find certain other Class Members who had been held at reception centers.
- 8.3. Now sober, she is willing, motivated and available to represent the interest of all Class Members and to fully assist and cooperate with her attorneys to diligently carry out the action.
- 8.4. In the context of these proceedings, Eleanor Lindsay has been ordered to obtain and to provide her medical and social records to the Defendants, which she did after having gone through a lengthy and time consuming process.
- 8.5. She also provided written testimony regarding sexual abuses in response to the questions put to her by the Defendants, filed as **Exhibit P-32**, and attended in person the hearing held on April 27th and 28th in this matter.

9. The Plaintiff proposes that the class action be brought before the Superior Court, sitting in the district of Montréal, for the following reasons:

- 9.1. The reception centers concerned by this class action were and are situated throughout the province of Québec.
- 9.2. The location of the Class Members is not limited to a specific district within the Province of Québec, since their place of residence could have changed since they were released from the reception centers.
- 9.3. However, given the concentration of population in and near to Montréal, it is likely that a significant number of class members reside within or near the district of Montréal.
- 9.4. The Defendants has its offices throughout the Province of Québec.
- 9.5. The Plaintiff's attorneys have their office and practice in the district of Montréal.

FOR THESE REASONS, MAY IT PLEASE THE COURT:

GRANT the Plaintiff's *Application for authorization to institute a class action and obtain the status of representative*;

AUTHORIZE the class action hereinafter described as:

an action in compensatory and punitive damages;

APPOINT Mrs. Eleanor Lindsay as representative plaintiff for all Class Members forming part of the classes hereinafter defined as the “Residual Liberty Deprived Children Class” and the “Abused Children Class”:

All persons (...) placed in a “reception center” (“*centre d’accueil*”) (as defined below) as children up to 17 years old inclusively who, on or after October 1st, 1950, were deprived of their residual liberty at such “reception center”, including by being prevented from leaving a common area, being locked up in their cells, being locked up in a cell or being placed in solitary confinement.

A “reception center” is (...) defined as any facility (a) in which youth are or were received for lodging, maintenance, keeping under observation, treatment or rehabilitation purposes, and (b) which is or was recognized or licensed for such purposes by the government of Québec or one of its ministers. A “reception center” may also have been known as :

- a “youth protection school” or an “industrial school”, under the *Youth Protection Schools Act*, S.Q., 14 Geo. VI (1950), c. 11 (as amended and revised from time to time), art. 1.1b) and 48;
- a “charitable institution”, under the *Québec Public Charities Act*, S.Q. 11 Geo. V (1921), c. 79 (as amended and revised from time to time), art. 3e);
- a “reception centre”, under *An Act respecting health services and social services*, S.Q. 1971 c. 48 (as amended and revised from time to time), art. 1j);
- a “reception centre”, under *An Act respecting health services and social services for Cree Native persons*, S.R.Q. Chapter S-5, art. 1(k); or
- a “child and youth protection centre”, a “rehabilitation centre”, a “rehabilitation centre for young persons with adjustment problems” or a “youth centre”, under the *Act respecting health services and social services*, S.Q. 1991, c. 42 (now revised as CQLR c. S-4.2) (as amended and revised from time to time), art. 79, 82, 84, 86 and 87.1;

including, without being limited to, the following institutions:

Children’s Home, Accueil Boyer, Accueil des Jeunes, Allancroft, Auberge des 4 Vents (also known as Centre de réadaptation des quatre-vents, Centre d’accueil des quatre-vents and Campus des quatre-vents), Batshaw Family Youth Centres (also known as Centres de la famille Batshaw), Berthelet, Boscoville, Boys’ Farm and Training School (also known as Shawbridge Boys Farm), Carrefour des Jeunes, Carrefour Jeunesse Rosemont, Carrefour St-Arsène, Carrefour St-Jérôme, Carrefour Sylvie, Carrefour des Vieilles Forges (also known as Pavillon Bourgeois), La Calèche (also known as Centre éducatif et de plein-air La Calèche inc.), Centre Cartier, Centre Familial Thérèse Martin, Centres Familiaux Lac St-Jean, Centre d’accueil Cité des Prairies, Centre d’accueil des Laurentides, Centre

d'accueil Dixville, Centre d'accueil Godefroy Laviolette, Centre d'accueil Laurizon-Laurentien, Centre de réadaptation en déficience intellectuelle du Québec (CRDIQ), Centre de réadaptation La Triade, Centre de réadaptation pour les jeunes en difficulté d'adaptation de Gaspé, Centre de réadaptation pour les jeunes en difficulté de La Matanie, Centre de santé Inuulitsivik, Centre de santé Tulattavik de l'Ungava, Centre d'Orientation, Centre Élan jeunesse, Centre jeunesse de Chaudière-Appalaches, Centre jeunesse de l'Abitibi-Témiscamingue, Centre jeunesse de la Montérégie, Centre jeunesse de la Montérégie de Salaberry-de-Valleyfield, Centre jeunesse de Lanaudière, Centre jeunesse de Laval, Centre jeunesse de la Mauricie et du Centre-du-Québec, Centre jeunesse de Montréal, Centre jeunesse de Québec, Centre jeunesse de l'Estrie, Centre jeunesse du Bas-St-Laurent, Centre jeunesse du Saguenay-Lac-Saint-Jean, Centre jeunesse Gaspésie/Les Îles, Centre Rose-Virginie Pelletier, Clairséjour (also known as Clair séjour Marie-Joseph), Cinquième Saison, Crescent House, Dominique Savio, Dominique Savio-Mainbourg, L'Étape, Mount Bruno Girls' Cottage School, Habitat Soleil, Hochelaga-Maisonneuve, Jeunesse de Tilly, La Chesnaie, Centre d'accueil Laurentien, Centre d'accueil Laurizon, La Clairière, L'Escale, Le Mainbourg, Le Phare, Maisons Familiales d'Youville, Maisons Marie-Fitzbach, Maison Rouyn Noranda, Maison Sacré-Cœur, Maplemount Home, Marian Hall, Marie Vincent, Monseigneur Forget, Monseigneur Guay, Mont Saint-Antoine, Mont Saint-Aubert, Mont Saint-Patrick, Mont Villeneuve, Notre-Dame du Bel Amour, Notre-Dame de la Garde, Notre-Dame de Laval, Notre-Dame de l'Enfant, Notre-Dame du Perpétuel Secours, Pavillon Bois-Joly, Pavillon de l'Enfance, Pavillon des Jeunes, Pavillon Jeunesse, Pavillons Laforest, Pavillons du Parc, Pavillon Richelieu, Providence St-Joseph, Pavillon Toupie, Relais (Le), Relais Laval, Relais St-François, Saint-Charles, Services Barbara Rourke, St-Georges, St-Jean-Baptiste, St-Vallier, Ste-Agnès, Ste-Domitille, Ste-Hélène, Summerhill Homes, La Terre, Teen Heaven, Val-du-Lac, Val Estrie, Val Séjour, Vert Pré d'Huberdeau, La Vigie, Villa Dion, Villa Notre-Dame de Grâce, Villa Joie St-Dominique (also known as Ville-Joie St-Dominique), Ville-Marie Social Services, Unité La Rade, Unité Le Rivage, Weredale House and Youth Horizons.

(the “**(...) Residual Liberty Deprived Children Class**”)

- and -

All persons having been subject to abuses, including, without being limited to, assault or other physical abuses, sexual assault or other sexual abuses, (...) use of medication for disciplinary purposes, (...) use of cigarettes for disciplinary purposes, psychological abuses, during their admission at a youth “reception center” (“*centre d'accueil*”), as defined for the purposes of the (...) Residual Liberty Deprived Children Class, on or after October 1st, 1950, while they were children up to 17 years old inclusively.

(the “**Abused Children Class**” and collectively with the (...) Residual Liberty Deprived Children Class, “**Class Members**”)

The (...) Residual Liberty Deprived Children Class and the Abused Children Class are subject to the following exclusions:

Exclusion 1: Persons who are part of the class on behalf of which a class action was authorized on August 6, 2020 in matter 200-06-000221-187 (Superior Court of Québec) in connection with Mont d'Youville reception centre. This exclusion does not apply to such persons if they were also admitted to reception centres other than Mont d'Youville.

Exclusion 2: Persons who received financial assistance and signed a release pursuant to the National Program of Reconciliation with the Duplessis Orphans or the National Reconciliation Program for Duplessis Orphans Who Were Residents of Certain Institutions (collectively, the "NPRDO"). This exclusion does not apply to such persons if, beyond having been admitted to one of the institutions covered by the NPRDO between October 1, 1950 and December 31, 1964, (i) they were also admitted during this period to reception centres which are not covered by the NPRDO; or (ii) they were also admitted or readmitted, on or after January 1, 1965, to any reception centre.

IDENTIFY as follows the main questions of fact and law to be determined collectively:

1. Have the following practices occurred at the reception centers :
 - 1.1. (...)
 - 1.2. (...) deprivation of residual liberty consisting in preventing the (...) Residual Liberty Deprived Children Class members from leaving (...) a common area?
 - 1.3. (...) deprivation of residual liberty consisting in locking up the (...) Residual Liberty Deprived Children Class members in their cells?
 - 1.4. (...) deprivation of residual liberty consisting in locking up the (...) Residual Liberty Deprived Children Class members in a cell?
 - 1.5. solitary confinement of the (...) Residual Liberty Deprived Children Class members?
 - 1.6. assault or other physical abuses of the Abused Children Class members?
 - 1.7. sexual assault or other sexual abuses of the Abused Children Class members?
 - 1.8. (...) use of medication for disciplinary purposes on the Abused Children Class members?
 - 1.9. (...) use of cigarettes for disciplinary purposes in connection with the Abused Children Class members?
 - 1.10. other abuses, including psychological abuses, of the Abused Children Class members?
2. Do all or some of the impugned practices listed at subparagraph 1 amount to a fault engaging the liability of the Defendants?
3. What type of damages are common to the (...) Residual Liberty Deprived Children Class as a result of the impugned practices?
4. What type of damages are common to the Abused Children Class as a result of the impugned practices?

5. Are (...) Residual Liberty Deprived Children Class members entitled to punitive damages?
6. What is the amount of such punitive damages for the purpose of collective recovery?
7. Are Abused Children Class members entitled to punitive damages?
8. What is the amount of such punitive damages for the purpose of collective recovery?
9. What are the factors common to the Class Members with respect to the impossibility to act?

IDENTIFY as follows the conclusions sought in relation thereof:

GRANT the Plaintiff's action;

CONDEMN the Defendants to pay to the Plaintiff, at the recovery stage, the amount of \$ 500,000 on account of non-pecuniary damages;

CONDEMN the Defendants to pay to the Plaintiff, at the recovery stage, an amount to be determined on account of pecuniary damages, with interest and the additional indemnity calculated from the date of the service of the *Application for authorization to institute a class action and obtain the status of representative*;

CONDEMN the Defendants to pay to the Plaintiff, at the collective recovery stage, an amount to be determined on the account of punitive damages, with interest and the additional indemnity calculated from the date the service of the *Application for authorization to institute a class action and obtain the status of representative*;

GRANT the Plaintiff's action on behalf of all Class Members;

CONDEMN the Defendants to pay to each member of the (...) Residual Liberty Deprived Children Class an amount on account of *non-pecuniary damages*, the quantum of such amount to be determined in accordance with parameters to be established at the collective issues stage, including, without limitation, for pain, suffering, loss of enjoyment of life and other moral damages;

CONDEMN the Defendants to pay to each member of the (...) Residual Liberty Deprived Children Class an amount on account of *pecuniary damages*, the quantum of such amount to be determined in accordance with parameters to be established at the common issues stage, including, without limitation, for loss of income, therapy and counselling fees;

CONDEMN the Defendants to pay to each member of the *Abused Children Class* an amount on account of *non-pecuniary damages*, the quantum of such amount to be determined in accordance with parameters to be established at the common issues stage, including, without limitation, for pain, suffering, loss of enjoyment of life and other moral damages;

CONDEMN the Defendants to pay to each member of the *Abused Children Class* an amount on account of *pecuniary damages*, the quantum of such amount to be determined in accordance with parameters to be established at the common issues stage, including, without limitation, for loss of income, therapy and counselling fees;

CONDEMN the Defendants to pay to the members of the (...) *Residual Liberty Deprived Children Class* an amount to be determined on account of *punitive damages*, and **ORDER** the collective recovery of such amount;

CONDEMN the Defendants to pay to the members of the *Abused Children Class* an amount to be determined on account of *punitive damages*, and **ORDER** the collective recovery of such amount;

THE WHOLE with interest and additional indemnity provided for in the *Civil Code of Québec* calculated from the date of the service of the *Application for authorization to institute a class action and obtain the status of representative*, and with costs, including costs of all experts, notices, fee and expenses of the administrator of the plan of distribution of the recovery in this action.

ORDER the publication of a notice to the Class Members according to the terms to be determined by the Court;

ORDER the publication of the notice to the Class Members no later than thirty (30) days after the date of the judgment authorizing the class proceedings;

ORDER that the deadline for a Class Member to exclude herself from the class action proceedings shall be sixty (60) days from the publication of the notice to the Class Members;

ORDER the setting up of a bilingual website to be administered by the representative plaintiff and her attorneys for the benefit of Class Members;

ORDER the Defendants for pay the costs associated with the setting up and the maintenance of the website until the conclusion of the proceedings;

ORDER that this class action proceeds before the Superior Court, sitting in the district of Montréal;

ALLOW the use of aliases for the purpose of identification of Class Members in the proceedings, exhibits or any other document filed with the Court, in order to protect their identity;

THE WHOLE with costs, including the cost of all notices.

MONTREAL, May 4th, 2022

Novalex Law Firm Inc.

NOVALEX LAW FIRM INC.

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MONTREAL, May 4th, 2022

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SUMMONS
(Articles 145 and following C.C.P.)

TAKE NOTICE that the Plaintiff has filed this **MODIFIED APPLICATION FOR AUTHORIZATION TO INSTITUTE A CLASS ACTION AND OBTAIN THE STATUS OF REPRESENTATIVE AS OF MAY 4TH, 2022** in the office of the Superior Court (Class Action Division) in the judicial district of Montréal.

You must answer the application in writing, personally or through a lawyer, at the courthouse of Montréal situated at 1, Notre-Dame E. Street within 15 days of service of the application or, if you have no domicile, residence or establishment in Québec, within 30 days.

The answer must be notified to the plaintiff's lawyer or, if the plaintiff is not represented, to the plaintiff. If you fail to answer within the time limit of 15 or 30 days, as applicable, a default judgement may be rendered against you without further notice and you may, according to the circumstances, be required to pay the legal costs. In your answer, you must state your intention to:

- negotiate a settlement;
- propose mediation to resolve the dispute;
- defend the application and, in the cases required by the Code, cooperate with the plaintiff in preparing the case protocol that is to govern the conduct of the proceeding. The protocol must be filed with the court office in the district specified above within 45 days after service of the summons or, in family matters or if you have no domicile, residence or establishment in Québec, within 3 months after service;
- propose a settlement conference.

The answer to the summons must include your contact information and, if you are represented by a lawyer, the lawyer's name and contact information.

You may ask the court to refer the originating application to the district of your domicile or residence, or of your elected domicile or the district designated by an agreement with the plaintiff.

If the application pertains to an employment contract, consumer contract or insurance contract, or to the exercise of a hypothecary right on an immovable serving as your main residence, and if you are the employee, consumer, insured person, beneficiary of the insurance contract or hypothecary debtor, you may ask for a referral to the district of your domicile or residence or the district where the immovable is situated or the loss occurred. The request must be filed with the special clerk of the district of territorial jurisdiction after it has been notified to the other parties and to the office of the court already seized of the originating application.

If you qualify to act as a plaintiff under the rules governing the recovery of small claims, you may also contact the clerk of the court to request that the application be processed according to those rules. If you make this request, the plaintiff's legal costs will not exceed those prescribed for the recovery of small claims.

Within 20 days after the case protocol mentioned above is filed, the court may call you to a case management conference to ensure the orderly progress of the proceeding. Failing this, the protocol is presumed to be accepted. In support of the application, the plaintiff intends to use the following exhibits:

- EXHIBIT P-1:** Article entitled “*Jail handcuffs girls and straps them to concrete bed*” by Gillian Cosgrove, *Montreal Gazette*, January 2nd, 1975;
- EXHIBIT P-2:** Article entitled “*Architecture masks aim*” by Gillian Cosgrove, *Montreal Gazette*, January 3rd, 1975;
- EXHIBIT P-3:** *Rapport du comité d’étude sur la réadaptation des enfants et adolescents placés en centre d’accueil*, December 22, 1975;
- EXHIBIT P-4:** Summary of the *Rapport du comité d’étude sur la réadaptation des enfants et adolescents placés en centre d’accueil*, December 22, 1975;
- EXHIBIT P-5:** Article entitled “*Housewife says daughter 'going crazy' in solitary*” by Victor Malarek, *Montreal Star*, November 2nd, 1971;
- EXHIBIT P-6:** *The Batshaw Youth and Family Centres – Prévost Campus – La Chapelle Unit, Conclusions of the Investigation, May 1997;*
- EXHIBIT P-7:** “*La légalité de l’encadrement intensif en vertu de la Loi sur la protection de la jeunesse*”, CDPDJ, October 9th, 1998;
- EXHIBIT P-8:** *Rapport et conclusion d’enquête Pavillon Bois-Joly*, CDPDJ, September 2000;
- EXHIBIT P-9:** *Enquête portant sur les services de protection de la jeunesse dans la baie d’Ungava et la baie d’Hudson – Nunavik – Rapport, conclusions d’enquête et recommandations*, CDPDJ, April 2007;
- EXHIBIT P-10:** *Les jeunes en centres jeunesse prennent la parole ! - Rapport de recherche, Conseil permanent de la jeunesse*, July 2004;
- EXHIBIT P-11:** *Les jeunes en centres jeunesse prennent la parole! - Avis, Conseil permanent de la jeunesse*, July 2004;
- EXHIBIT P-12:** Transcript of Paul Arcand’s documentary *Voleurs d’enfance*, 2005;
- EXHIBIT P-13:** *Étude sur l’utilisation de l’isolement et de la contention au sein des missions réadaptation jeunesse des CISSS et CIUSSS du Québec, ainsi que dans certains établissements non fusionnés*, CDPDJ, May 2017;
- EXHIBIT P-14:** Article entitled “*DPJ: les enfants risquent d’être traumatisés de nouveau par le système*” by Louise Leduc, *La Presse*, November 5th 2019;

- EXHIBIT P-15:** Transcript of the Laurent Commission hearing held on October 22, 2019 (testimony of Camille Shaink);
- EXHIBIT P-16:** Transcript of the Laurent Commission hearing held on October 22, 2019 (testimony of Jessica Côté-Guimond and Émilie Roy);
- EXHIBIT P-17:** Transcript of the Laurent Commission hearing held on October 22, 2019 (testimony of Émilie Roy);
- EXHIBIT P-18:** Transcript of the Laurent Commission hearing held on October 23, 2019 (testimony of Alexandre Bulon-Biciola);
- EXHIBIT P-19:** Transcript of the Laurent Commission hearing held on October 23, 2019 (testimonies of several other victims and their parents);
- EXHIBIT P-20:** Summary of the testimony of Olivier Gosselin before the Laurent Commission;
- EXHIBIT P-21:** Transcript of the Laurent Commission hearing held on November 7, 2019 (censored testimony);
- EXHIBIT P-22:** Testimony of Jade Bourdage, Claudie Otis, Caroline Dufour and Valentine Fau before the Laurent Commission;
- EXHIBIT P-23:** Article entitled "*Les enfants « tablettés »*", by Rima Elkouri, *La Presse*, November 3rd, 2019;
- EXHIBIT P-24:** Article entitled "*Solitary method 'barbaric, destructive,' experts warning*", by Angela Ferrante, *Montreal Gazette*, January 3rd, 1975;
- EXHIBIT P-25:** *A Sourcebook on Solitary Confinement*, by Sharon Shalev, Mannheim Centre for Criminology at the London School of Economics, January 2008.
- EXHIBIT P-26:** The 1990 United Nations Rules for the Protection of Juveniles Deprived of Their Liberty;
- EXHIBIT P-27:** Report by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, United Nations, August 5th, 2011;
- EXHIBIT P-28:** United Nations International Covenant on Civil and Political Rights, adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 23 March 1976;
- EXHIBIT P-29:** United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted and opened for signature, ratification and accession by General Assembly resolution 39/46 of 10 December 1984 entry into force 26 June 1987;

- EXHIBIT P-30:** United Nations Convention on the Rights of the Child, adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989, entry into force 2 September 1990.
- EXHIBIT P-31:** Renée Joyal, « *Les lois de protection de la jeunesse de 1950-1951 : un accommodement historique sous le signe du paternalisme d'État et d'Église* » in *L'évolution de la protection de l'enfance au Québec : des origines à nos jours*, Québec, PUQ, 2000 (...).
- EXHIBIT P-32:** Written testimony of Eleanor Lindsay regarding sexual abuses, dated April 1, 2022.
- EXHIBIT P-33:** Lucie Lemonde, « Note de recherche : les droits des jeunes en centre de réadaptation au Québec – bilan des enquêtes » (2014) 1 R.C.D.S. 85.

These exhibits are available on request.

If the application is an application in the course of a proceeding or an application under Book III, V, excepting an application in family matters mentioned in article 409, or VI of the Code, the establishment of a case protocol is not required; however, the application must be accompanied by a notice stating the date and time it is to be presented.

MONTREAL, May 4th, 2022

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MONTREAL, May 4th, 2022

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No. : 500-06-001022-199

**CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL**

SUPERIOR COURT
(Class Action)

ELEANOR LINDSAY

Plaintiff

v.

ATTORNEY GENERAL OF QUÉBEC et al.

Defendants

**MODIFIED APPLICATION FOR AUTHORIZATION
TO INSTITUTE A CLASS ACTION AND TO OBTAIN
THE STATUS OF REPRESENTATIVE AS OF
MAY 4TH, 2022
(Article 585 of the Code of civil procedure)**

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BC-4468

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Objet: Notification by Email - Application for Permission to Amend the Modified Application
and to Obtain the Status of Representative - 500-06-001022-199 - Eleanor Lindsay v.
Procureure Générale du Québec et al. - Our file: 1860-00912
Pièces jointes: Application for Permission to Amend_May 4 2022_Novalex_Davies.pdf
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	Marianne Brouillet	Remis: 2022-05-04 16:16	Lu: 2022-05-04 16:25

Transmission Slip of Notification by Email (Art. 134 C.C.P.)

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DETAILS

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(Article 585 of the *Code of civil procedure*)

Court docket number 500-06-001022-199

Request number

The parties Eleanor Lindsay v. Procureure générale du Québec et al.

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**CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL**

SUPERIOR COURT
(Class Action)

ELEANOR LINDSAY

Plaintiff

v.

ATTORNEY GENERAL OF QUÉBEC et al.

Defendants

**APPLICATION FOR PERMISSION TO AMEND THE
MODIFIED APPLICATION FOR AUTHORIZATION
TO INSTITUTE A CLASS ACTION AND TO OBTAIN
THE STATUS OF REPRESENTATIVE**
(Article 585 of the Code of civil procedure)

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