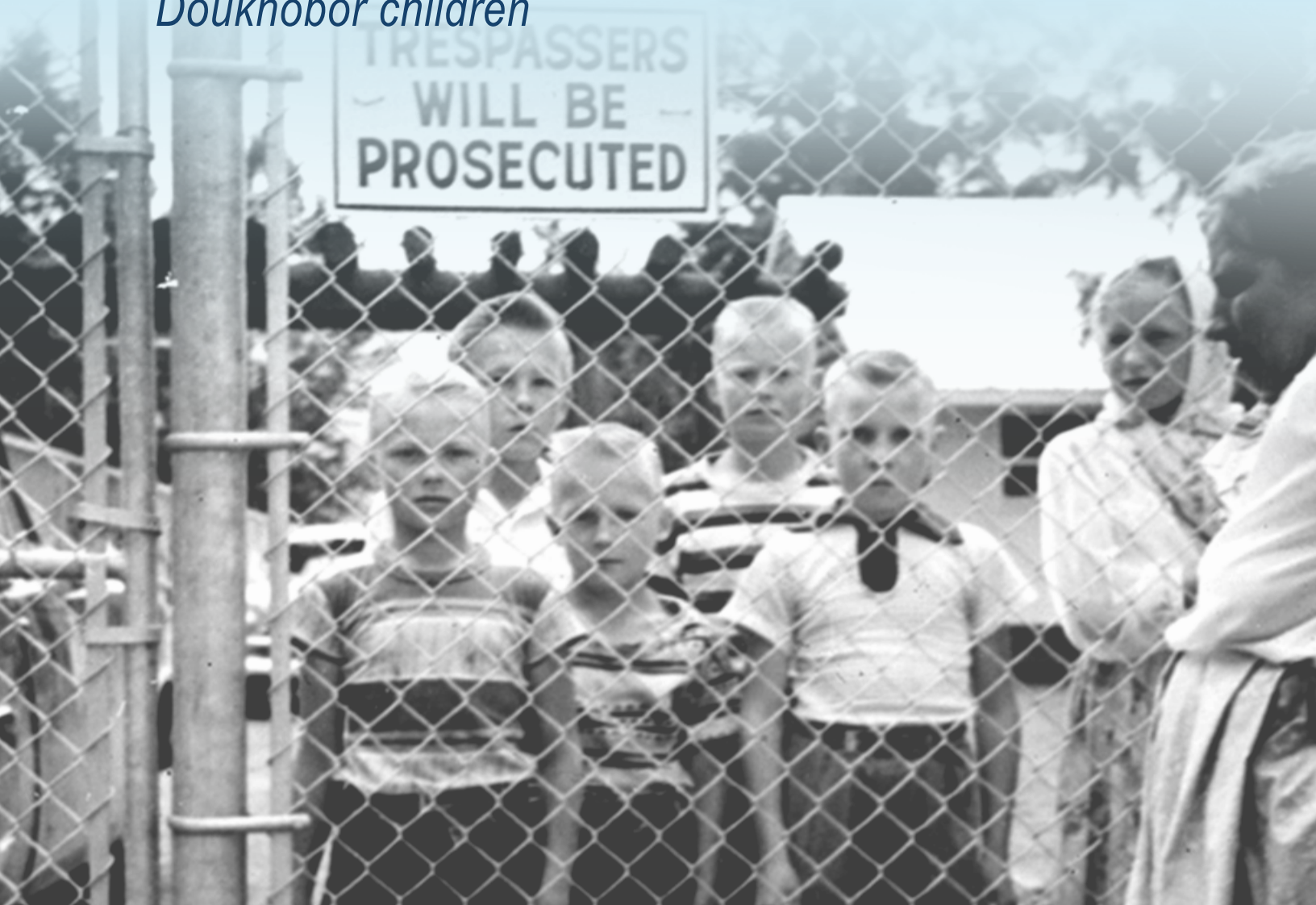


TIME TO RIGHT THE WRONG:

Monitoring government's implementation of recommendations related to the confinement of Doukhobor children



As an independent officer of the Legislature, the Ombudsperson investigates complaints of unfair or unreasonable treatment by provincial and local public authorities and provides general oversight of the administrative fairness of government processes under the *Ombudsperson Act*. The Ombudsperson conducts three types of investigations: investigations into individual complaints; investigations that are commenced on the Ombudsperson's own initiative; and investigations referred to the Ombudsperson by the Legislative Assembly or one of its Committees.

The Ombudsperson has a broad mandate to investigate complaints involving provincial ministries; provincial boards and commissions; Crown corporations; local governments; health authorities; colleges and universities; schools and school boards; and self-regulating professions and occupations. A full list of authorities can be found in the *Ombudsperson Act*. The Office of the Ombudsperson responds to approximately 8,000 enquiries and complaints annually.

Under the *Public Interest Disclosure Act* the Ombudsperson investigates allegations of wrongdoing from current and former public employees in or relating to a public body covered by the Act as well as allegations of reprisal.

Our Public Authority Consultation and Training Team offers educational webinars, workshops and individual consultation with public organizations to support fairness and continuous improvement across the broader provincial and local public sector.

For more information about the BC Office of the Ombudsperson and for copies of published reports, visit bcombudsperson.ca.

Our office is located on the unceded traditional lands of the Lək̓ʷəŋən (Lekwungen) People and ancestors and our work extends across the homelands of the Indigenous Peoples within what we now call British Columbia. We honour the many territorial keepers of the lands and waters where we work.

Caution to Readers

This report contains details of the abuse of children that may be disturbing to some readers. For survivors of New Denver and their families, the content of this report may recall or surface memories of traumatic personal experiences or experiences of families or friends.

If you require emotional support, you can contact the BC Crisis Centre at 1-800-784-2433 or online at <https://crisiscentre.bc.ca>.



OMBUDSPERSON
BRITISH COLUMBIA

July 2023

The Honourable Raj Chouhan
Speaker of the Legislative Assembly
Parliament Buildings
Victoria BC V8V 1X4

Dear Mr. Speaker,

It is my honour to present the Ombudsperson's Special Report No. 53, *Time to Right the Wrong: Monitoring government's implementation of our recommendations related to the confinement of Doukhobor children*.

The report is presented pursuant to section 31(3) of the *Ombudsperson Act*.

Yours sincerely,

Jay Chalke
Ombudsperson
Province of British Columbia

FROM THE OMBUDSPERSON

This report focuses on a dark chapter in British Columbia history – this province’s apprehension of approximately 200 children and the confinement of those children at a former tuberculosis sanatorium in New Denver between 1953 and 1959. They were taken from their parents who identified as Sons of Freedom Doukhobors and who opposed government polices and regulations. In 1999 our office investigated these events and found what happened to these children “unjust and oppressive.” We called on government to apologize and compensate those who were, by then, adults.

While the events and voices of survivors highlighted in these pages speak for themselves, the report raises two critically important issues. The first focuses on the inordinate amount of time it has taken for justice to occur for the survivors of this experience, for their families and for their community. It is sometimes said that “It’s never too late to do the right thing.” However as in this case, there are instances when the delay is so unreasonable and so unfair that the aphorism “Justice delayed is justice denied” applies more appropriately. When our office issued our report in 1999, more than four decades had passed since the children were institutionalized. That report, 24 years ago, outlined vivid details and first-hand accounts of physical and emotional maltreatment including the fact that the children were forced to build the chain link fence through which they were permitted



only limited visits with their parents. But still, even with the disturbing details laid out in that report, government failed to do what the then-Ombudsman explicitly recommended – apologize to, and compensate, those involved.

Subsequent events further highlight the missed opportunities to deliver an apology. In 2004 government issued a statement of regret, but stopped short of apologizing, apparently fearing the risk of incurring legal liability by doing so. After the Court of Appeal confirmed in 2005 that government was not legally liable for wrongs committed before 1974, the government still did not apologize. And even after government passed the *Apology Act* in 2006 that removed the threat of liability when apologizing, government still didn’t act. Yet one more missed opportunity came in 2020

when a report commissioned by government established a framework for an apology, but still, no apology was made.

Now finally, in response to my present report, fully 70 years since these events, the Government of British Columbia has committed to apologize this fall. This act, as we state in this report, is not a mere gesture, it is a momentous step. For the first time, the current government, on behalf of the province, will accept full responsibility and hold itself accountable for past government actions that were wrong. It is something the Doukhorbor community has been awaiting for a very long time and I believe will be a foundational step in achieving closure for all those involved. When government finally apologizes this fall, it will come too late for those who have died. However, I trust that those still alive can take solace in Dr. Martin Luther King Jr.'s reminder that "the arc of the moral universe is long, but it bends toward justice."

In addition to the delay in issuing an apology, this report also highlights government's reluctance to date to offer adequate compensation to those who were impacted. In the seven decades since these children were taken, government had innumerable opportunities to provide fair compensation but still did not act. I am deeply disappointed that in response to this report government has only committed to work toward an undefined "recognition package." The elderly survivors of unjustified government detention so many years ago deserve honesty and a clear

message of what will come next for them. This is not the time for obfuscation, it is time for government to clearly commit to do the honourable thing by providing compensation that is long overdue to these individuals, their families, and their community. I will be monitoring government's development and implementation of its recognition package and commit to doing all I can to see justice done.

I have great admiration for the determination and strength of the survivors and their families who have shared their experiences of trauma and am deeply saddened that, to date, they have not yet received justice. True closure will only happen when government's promises are made real. I will continue to report on government's progress.

Yours sincerely,

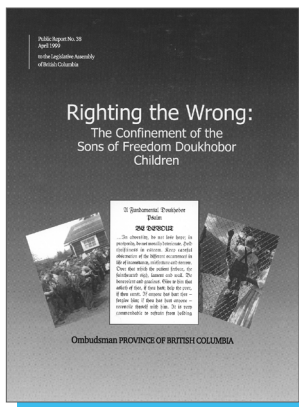


Jay Chalke
Ombudsperson
Province of British Columbia

RIGHTING THE WRONG REPORT AND RECOMMENDATIONS

More than 20 years ago, in 1999, my office released a report describing events that had happened more than four decades earlier: the forcible removal and confinement, in an institution in New Denver, BC of children whose parents were members of the Sons of Freedom Doukhobor community in the West Kootenays. The traumatic impacts of these events have continued to reverberate over the ensuing decades, through individual survivors and their families and communities.*

Our report, *Righting the Wrong*, detailed the injustices and maltreatment suffered by these children at the hands of the government from 1953 to 1959 as a result of their removal and confinement in New Denver. We found that the children were alienated from, and denied access to, their parents, religion, culture and language. The children were forced to live in an institutional setting, lost their privacy and civil liberties,



were removed from their communities, and were abused through neglect, lack of love and nurturing and harsh discipline. Some children who witnessed a serious confrontation between their parents and public officials were not provided with

assistance in healing their trauma arising from that incident. The children were, through no fault of their own, treated as though they were criminals. We found that many of the children, as adults, continued to

suffer the long-term impacts of this arbitrary, discriminatory and unjust confinement. The actions, decisions and omissions of government caused irreplaceable loss to the children who were removed.

While recognizing that the harms suffered to the survivors as children could not truly be remedied, our report and the recommendations it contained sought to convey to government that it was not too late to try and make things right with the Doukhobor community in BC. We recommended that the Attorney General, on behalf of government:

- Acknowledge that government was wrong in the manner in which it removed and confined the children of the Sons of Freedom Doukhobors (Recommendation 1)
- Explain, as fully and adequately as possible given the passage to time, to adults who were removed as children, why they were removed and confined (Recommendation 2)
- Make an **unconditional, clear and public apology** to the individuals who were apprehended, on behalf of the government, for the means by which they were removed and confined. The apology should include:
 - An acknowledgement that the children were, by being institutionalized, treated unfairly and unjustly as a group and as individuals, and that harm resulted
 - A full and comprehensive explanation of why the children were institutionalized and detained

*See Appendix A for first-person accounts of these events, as contained in our original report.

- An acknowledgement that the harm was not intended and that the government express regret for the harm done
- A clear statement that government offers reparation for the harm done (Recommendation 3)
- Consult with affected individuals as a collective to determine the appropriate form of compensation, for individuals and the group (Recommendation 4)
- Refer the report to the RCMP's Commanding Officer, "E" division, urging them to consider the role of the RCMP and the appropriate action to take in response (Recommendation 5)¹

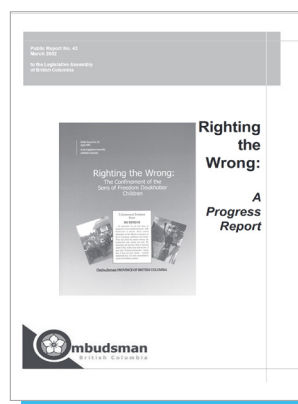
In the summer of 2022, staff from my office visited the West Kootenays on an outreach tour. During this tour, we met with survivors of the events described in our report, who had been removed from their families as children and confined at New Denver. We also heard from family members of survivors. We heard that people continued to feel that the government had failed to fully address its wrongdoing and, in particular, that it had not issued a proper apology nor had it offered adequate compensation. We heard that for these individuals, government action on these recommendations is particularly urgent, as survivors are getting old, and many have already passed on.

This report describes our understanding of what has happened in the years since *Righting the Wrong* was released, and restates our call, more than 20 years ago, for government to offer a clear and unconditional apology and compensation. We echo the calls of survivors for government to act urgently to make things right.

¹ Office of the Ombudsperson, British Columbia. *Righting the Wrong: The Confinement of the Sons of Freedom Doukhobor Children*. Public Report No. 38. April 1999, <https://bcombudsperson.ca/assets/media/Public-Report-No-38-Righting-the-Wrong-The-Confinement-of-the-Sons-of-Freedom-Doukhobor-Children.pdf>.

2002 report on implementation of recommendations

In the years immediately following our report, the Attorney General took some steps toward implementing the recommendations in our report. In 2002, we issued a public progress report in which we assessed Recommendation 5 as fully implemented, Recommendations 2, 3 and 4 as partially implemented and Recommendation 1 as not implemented.



In that report, we said, “government has not provided a clear acknowledgement that it was wrong in the manner in which it apprehended and confined the children of the Sons of Freedom Doukhobors in the New Denver institution.” We said that government had attempted to provide an explanation for why children were apprehended and confined and had provided historical background to affected individuals “to put the issues into context.”

Importantly, we said that government had not made an “unconditional, clear and public apology” in the Legislative Assembly. While the Deputy Attorney General had written to survivors in November, 2000 expressing regret for “what happened to you and your families,” this was not sufficient to implement our recommendation.

We also reported that government had begun a process of consulting with affected individuals on further actions that, we

hoped, would result in a “mutually agreeable resolution that properly embodies the spirit of this recommendation.”

Finally, we noted that a copy of the report had been provided to the commanding officer of the RCMP “E” division.²

Little additional meaningful progress was made in the ensuing years.

2004 statement of regret

In October 2004, in front of a group of affected individuals who were present in the House, the then-Attorney General issued a statement of regret in the Legislative Assembly. The Attorney General said:

I rise in the House with the honour of paying tribute to some very special guests who are joining us here today. ...

They are representatives of a very special group of British Columbians known as the New Denver Sons of Freedom Doukhobor children. I would like to take a few moments to talk about a sad chapter in BC history that concerns them.

The provincial ombudsman brought this chapter to the attention of government and the public in her 1999 report entitled *Righting the Wrong: the Confinement of the Sons of Freedom Doukhobor Children*. This report details the events that occurred some 50 years ago, when 104 Sons of Freedom Doukhobor children were removed from their parents, who were arrested during a protest in the West Kootenays.

In 1953 some 104 children were taken by bus to New Denver, where those of school age were kept in a residential care facility and those who were not of school age were returned to their

families. Over the next six years, from 1953 to 1959, the government enforced a policy of mandatory school attendance. Approximately 200 children were placed in the New Denver institution during this period. Many Sons of Freedom parents, determined not to surrender their children, hid them from the police. Initially, the children went to school in the institution, but eventually they were integrated into the local public school in New Denver.

No doubt the New Denver experience affected these children and their families in profound ways. In many cases, these children were kept from their parents for extraordinary periods of time. Some children were not allowed to return home during the summer or at Christmas because of uncertainty that their parents would return them to New Denver.

This was not an easy story to hear, nor is it an easy story to tell. I commend all those who came forward after all these years to talk about what must be extremely personal and painful memories. Many of these people, we have since come to learn, have buried their past, and they even felt it necessary to hide their Sons of Freedom background and their association with New Denver from their friends, their neighbours and their employers.

The challenge that we as government today face in understanding what happened half a century ago is not as simple as one might expect. What we do know is that these were frightening times for the residents of the Kootenay and Boundary regions of British Columbia. Bombings and burnings had been occurring throughout this part of the

² Office of the Ombudsperson, British Columbia. *Righting the Wrong: A Progress Report*. Public Report No. 43. March 2002, <https://bcombudsperson.ca/assets/media/Public-Report-No-43-Righting-the-Wrong-Progress-Report.pdf>.

province for over three decades. Fear and anger had escalated among both the Doukhobor and the non-Doukhobor communities. To this end, the government of the day was under tremendous pressure to do something to end the violence.

We can't fully understand or explain the motives of a government of 50 years ago. We can, though, recognize the circumstances under which these events occurred and acknowledge how things might be done differently if we were to do them today.

I would like to thank those who had the courage to come forward to remind British Columbians about this history. Many of us were unaware or had forgotten about the conflicting values and political turmoil that involved the government and these communities over half a century ago. In particular, too many of us were unaware that you, as innocent children, were taken from your homes, your families and your communities.

We recognize that as children, you were caught in this conflict through no fault of your own. On behalf of the government of British Columbia, I extend my sincere, complete and deep regret for the pain and suffering you experienced during the prolonged separation from your families. We recognize and regret that you were deprived of the day-to-day contact with your parents and the love and support of your families. We recognize and we regret the anguish that this must have caused. We will continue to offer

counselling to former residents and to your relatives — including your siblings, your offspring and your spouses — who wish to access this service.

We hope that this acknowledgment will enable you to work with us toward continued reconciliation and healing.³

We understand that the government's unwillingness, at that time, to offer a full apology was in part based on a concern that an apology would carry with it an admission of legal liability.⁴

A government news release issued at the time also said that discussions with affected individuals were ongoing and confirmed that the Ministry of Children and Family Development was providing a counselling program to affected individuals and their families.⁵ We understand that these services were offered from 2002 to 2007 but according to the Attorney General's office, many survivors did not participate.

Regret is not an apology

In 2006, the Legislative Assembly passed the *Apology Act*. That Act provides that an apology is not an admission of liability or fault and is not admissible in court.⁶ In our report *The Power of an Apology: Removing Legal Barriers*, which led in part to this legislation, we commented on whether the Attorney General's 2004 "statement of regret" to the survivors amounted to a true apology in the spirit of our recommendation:

If you were seated in the Legislature's public gallery that day or reading the Attorney General's statement in a news-

³ Hon. Geoff Plant, British Columbia Legislative Assembly, Hansard, 4 October 2004, 11343, <https://www.leg.bc.ca/documents-data/debate-transcripts/37th-parliament/5th-session/20041004pm-Hansard-v26n2>.

⁴ *Swetlishoff v. B.C. (Attorney General)* (No. 2), 2013 BCHRT 106, para 235.

⁵ Ministry of Attorney General, "Statement of Regret to Sons of Freedom Doukhobor Children," News Release, October 4, 2004, <https://archive.news.gov.bc.ca/releases/archive/2001-2005/2004ag0031-000793.htm>.

⁶ *Apology Act*, S.B.C. 2006, c. 19.

paper report, would you have heard an apology on behalf of the government? Many people did. However, many of those to whom the statement was directed did not hear what they needed to hear. They heard regrets, but they wanted more than regrets and so the eloquent words of the Attorney General did not meet their expectations nor satisfy their need of an apology for what happened to them so many years earlier. Many of the former children of Sons of Freedom Doukhobors indicated that they would have been able to move forward in their effort to heal, had they heard the Attorney General express “sincere, complete and deep apology for the pain and suffering you experienced.” The Attorney General’s statement was unacceptable to them because the word “regret” was used in place of “apology”

...

The now-adult Sons of Doukhobor children wanted to hear someone say, “I am sorry for what happened to you” or “I apologize for what happened to you.” Regret was not enough.⁷

In describing the importance of saying “I’m sorry,” we said:

What is it about the word apology that conveys greater meaning and significance than regret? When does an apology help to heal and when does it disappoint? Empathy is expressed when a person expresses regret for harm to another and acknowledges the other’s hurt. When a person apologizes for harm done to another, it is implied that the person acknowledges the

wrongdoing and is taking responsibility for what happened. It is the combination of acknowledging the wrongdoing and accepting responsibility that seems to give strength to an apology.

...

If legislation [such as the *Apology Act*] had been in place by the fall of 2004 when the Honourable Attorney General expressed regret to the Sons of Freedom Doukhobor children, would the Honourable Attorney General’s statement have been different? We can only speculate. Might he have said to the former Sons of Freedom Doukhobor children: “On behalf of the government of British Columbia, I extend my sincere, complete and deep apology for the pain and suffering you experienced during the prolonged separation from your families”?

Apology is but one word, but it is the one word that can make all the difference for those who need to hear it.⁸

We do not know whether the outcome for the survivors would have been different had the Attorney General issued an apology in 2004 rather than a statement of regret. However, it is clear that the statement in the form it was delivered was insufficient to address the harms. This is evident in what we heard when we met with survivors in 2022, and in the fact that from 2002 to 2013, survivors sought a remedy for the harms done to them through proceedings at the BC Supreme Court, the Court of Appeal and the Human Rights Tribunal. These proceedings were not successful.

⁷ Office of the Ombudsperson, British Columbia. *The Power of an Apology: Removing the Legal Barriers*. Special Report No. 27. February 2006, <https://bcombudsperson.ca/assets/media/Special-Report-No-27-The-Power-of-an-Apology-Removing-Legal-Barriers.pdf>, 4.

⁸ Office of the Ombudsperson, British Columbia. *The Power of an Apology: Removing the Legal Barriers*. Special Report No. 27. February 2006, <https://bcombudsperson.ca/assets/media/Special-Report-No-27-The-Power-of-an-Apology-Removing-Legal-Barriers.pdf>, 15.

Time to act

In 2018, government said it was “considering the issue of a formal apology to the New Denver survivors” but no further announcements have been made since.

When we contacted the Attorney General following hearing from survivors in 2022, we learned that the ministry had in 2020 completed some work in relation to these recommendations, and had received a report, based on consultation with survivors, that established a framework for an apology and reconciliation framework, as well as other potential remedies.

In this respect, I must emphasize:

- 70 years have passed since the first children were apprehended and confined in New Denver
- 24 years have passed since our report first recommended an unconditional, clear and public apology and compensation
- 19 years have passed since the Attorney General’s ‘statement of regret’

Given the age of the survivors, and the time that has already passed, the time for government to act is now. I urge the government to act immediately to make a full, public apology and to provide appropriate compensation.⁹ It’s not too late to say, “I’m sorry,” but it might soon be.

**70 YEARS
HAVE PASSED**

since the first children were apprehended and confined in New Denver.

**24 YEARS
HAVE PASSED**

since our report first recommended an unconditional, clear and public apology and compensation

**19 YEARS
HAVE PASSED**

since the Attorney General’s ‘statement of regret’

⁹ See Appendix B for the response from the Attorney General to our report.

APPENDIX A: FIRST-PERSON ACCOUNTS OF SURVIVORS

These accounts appeared in our 1999 report, *Righting the Wrong: The Confinement of the Sons of Freedom Doukhobor Children*

“... as a child you don’t register you know that the impact of it, you know. Like, so they’re doing something, they’re building a fence. Didn’t really question why, and then after, you know, slowly realized that well, wait a minute, this is, we’re imprisoning ourselves here, you know.”

“Life in New Denver was hell.”

“So my parents spent from two to two and a half years in jail. But even when my parents were released, I was still kept there.”

“They made their own zoo with the children.”

“If you’re sick I’ll never forget I had the real bad earache and I kept complaining and they said, “Off to school you go, never mind you’re not staying home.”

“It was very regimental. That’s why it was more like a prison, with the fence around, and all those rules, get up at a certain time, you make your bed, you use the bathroom at a certain time, breakfast, school, back to the dorm for lunch, back to school. Even in the summertime, it was still very regimental... Just - no flexibility - rules were rules and they had to be obeyed.”

“You don’t see your parents. They used to let our parents come once in two weeks to visit us and at one point I remember it was really traumatic to me was I had measles and I couldn’t go see my parents and they wouldn’t let the parents come in that room. It was called the pink room. You could never ever see your parents if you were sick with measles or mumps or anything.”

“The cops [would] come with pitchforks, and you’d see them... and you’d run like crazy. At six years old, you were running.”

We were ... in a group playing basketball and ... I dropped the ball and he started pounding [me] against the gym. Then he made me run around the building about ten times and he says “If you don’t make it in I’m gonna pound you again.”



“Miss ..., I can’t remember any other matron who give me straps, but ... for anything, for anything, I would get straps. I’d like to sue her, she wrecked my life... I guess like, like, abusing kids. She got a kick out of it.”

“Our parents could not have too much contact with us. The fence was in the way. To kiss us we would kiss through the loops in the fence. To touch us, we would stick our fingers through the fence and vice versa.”

“There were Russian books that my parents wanted me [to have] not to forget my language. So they passed on a whole bunch of books for me and my brother or whoever else so they can read on our own time and that was destroyed. And we never received anything.”

“I don’t know if he did that to the other girls or not, but he did that to me. We used to play with the ball and then he get me in the comer, made sure that I was in the comer. And then he’d say to put the lights off and like we are playing in the dark with this ball. And he was touching me and would grab my hands so I touched him there (privates)... I tried to avoid him lots of times, but then you could not tell anybody...”

“I came to New Denver in 1953. Taken away from my parents at ten years old.. I lost my childhood in those three years.”

“Well my most vivid memory of it all was my every waking minute that I had there for the five years that I was there is I want to go home. That’s my most vivid thought and memory at that time. I thought every waking minute I want to go home, I want to go home.”

“So they took us on buses to the New Denver. It was late at night when we got in and that was my home for the next three years. Needless to say I really missed my parents. Being so young, I really needed the protection and the love of my parents. At least I had my sister, ... with me, so that helped some. That was of course the first time I was away from my parents for any length of time. In a strange place, in an institution with people I did not know. People who did not show any love or affection to us.”



APPENDIX B: RESPONSE FROM ATTORNEY GENERAL



BRITISH
COLUMBIA

VIA EMAIL

Ref. 639517

July 14, 2023

Jay Chalke
Ombudsperson
Province of British Columbia
PO Box 9039 Stn Prov Govt
Victoria BC V8W 9A5

Dear Jay Chalke:

Thank you for your letter dated June 29, 2023, that included your draft monitoring report “Not too late to apologize: Implementing the Recommendations of the Ombudsperson’s *Righting the Wrong* Report.”

The government of the day’s forcible removal and confinement of children whose parents were members of the Sons of Freedom Doukhobor community in the West Kootenays continues to have long-lasting, traumatic impacts on survivors and their families today.

As a government and a society, it’s important that we continue to shine a light on injustices like this – which are rarely mentioned in history books – so they are never forgotten or repeated.

As you note in the monitoring report, we have implemented some of the recommendations identified, and there is more work to do as we build a better, more inclusive province for everyone.

Government is prepared to issue an apology this fall and we are preparing a formal recognition package.

.../2

Ministry of Attorney General

Mailing Address:
PO Box 9044 Stn Prov Govt
Email: AG.Minister@gov.bc.ca
Victoria BC V8W 9E2
website: www.gov.bc.ca/ag

Telephone: 250-387-1866
Facsimile: 250-387-6411

Jay Chalke
Page 2

On behalf of the Province of B.C. and all British Columbians, I want to thank you for your important work on this matter and everything your office does to promote and protect justice, fairness and equity in our province.

Sincerely,

A handwritten signature in black ink, appearing to be 'Niki Sharma', with a long horizontal stroke extending to the right.

Niki Sharma, KC
Attorney General



OMBUDSPERSON

B R I T I S H C O L U M B I A