

FEDERAL COURT

BETWEEN:

[FAMILY NAME (PRINT — UPPER CASE): ↓]

[First Name (print — lower case): ↓]

REID , Kenneth ,

Plaintiff

and

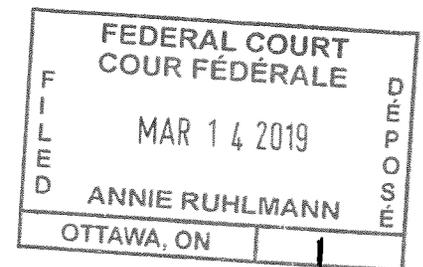
HER MAJESTY THE QUEEN,

Defendant

STATEMENT OF CLAIM ¹

(Federal Courts Act, s. 48, Schedule)

Facts



BACKGROUND

1. The plaintiff is a Canadian citizen and, as at the date of this *Statement of Claim* (the "Claim"), is 56 years old as of this Tuesday the 5th day of February, 2019.
2. He is and at all material times has been:
 - (a) possessed of all rights and freedoms constitutionally guaranteed by 31 Eliz. 2 c. 11, a.k.a. *Canada Act 1982*, Schedule B, pursuant to s. 52 thereof and Part I, a.k.a. *Canadian Charter of Rights and Freedoms* (the "*Charter*") in context of the preamble thereto; and, concurrently,
 - (b) due and owed the Crown's constitutional duty towards the subject ² *ab initio nunc pro tunc*, namely

¹ All footnotes are in the nature of Particulars of Claim for convenience of reference.

² *Halsbury's Laws of England*, 4th, Vol. 8, Para. 861 "The Crown's duty towards the subject".

- (i) “to cause law *and* justice in mercy to be executed in ALL judgments”; and, to this end, to
- (ii) “***MAINTAIN*** the Laws of God and the true profession of the Gospel” and, in particular, to do so “***TO THE UTMOST***” of Her power, including Her power under 30 and 31 Vict. c. 3 and as am, s. 9.

3. As to “the Laws of God and the true profession of the Gospel” of relevance to his circumstances on this action, the plaintiff pleads and relies on those as cited, linked and aligned, on their true construction and interpretation, as follows as concerning prisoners in the care and custody of Her Majesty the Queen, Defendant, and their proper treatment under God and the Crown, namely (emphasis and words in brackets added):

HEAR the groaning [pain, injury, prayers for relief, *etc.*] of the prisoner . . .

LISTEN to [hear, act on, *etc.*] their complaints.

*Psalm 102:20 KJV*³; *James 5:4 TEV*⁴

³ **KJV = *The Holy Bible***, King James Version (“KJV”), a.k.a. Authorized Version (“AV”), commissioned by His Most Excellent Majesty **King James** and published continuing to the present time since *Anno Domini* 1611 pursuant to Letters Patent issued, and continued, by the Crown. London, U.K.: Trinitarian Bible Society, 2008. Rights in KJV, a.k.a. AV, of the Bible are vested in the Crown. Published in Canada by permission of the Crown’s Patentee, the Cambridge University Press. Distributed in Canada by Canadian Bible Society (“CBS”), a body corporate incorporated by the Parliament of Canada pursuant to **6 Edw. 7** as am., in continuation of British and Foreign Bible Society to publish and distribute “the Laws of God and the true profession of the Gospel” throughout Canada.

⁴ **TEV = *Good News Bible***, Today’s English Version (“TEV”), with Deuterocanonicals/Apocrypha. Toronto: Canadian Bible Society, 1979. *Imprimatur*: **G Emmett Carter**, D.D. Ph.D., Archbishop of Toronto. 2nd Edition, 1992. *Imprimatur* 1994 *et seq.*: **Canadian Conference of Catholic Bishops**.

PREJUDICE IS WRONG.

Proverbs 28:21 TEV

REMEMBER [hear, decide the actions of, grant relief to, *etc.*] those **who are in prison** . . .

Let the sighing [prayers for relief, *etc.*] of the prisoners come before thee.

Hebrews 13:3 TEV; Psalm 79:11 KJV

THIS IS THE LAW . . . A PERPETUAL STATUTE.

Numbers 19:14, 19:21 KJV

Protect the rights **of all** who are helpless [detained, confined, shackled, chained, handcuffed, injured, *etc.*].

Speak for them and be a righteous [true-minded, *etc.*] judge. **Protect** the rights of the poor and needy [downtrodden, injured, disabled, imprisoned, *etc.*] . . .

For the LORD heareth the poor [lowly, outcast, convicted, imprisoned, the lowest of the low, *etc.*] **and despiseth not the prisoners.**

Proverbs 31:8-9 TEV; Psalm 69:33 KJV

DO NOT ADD to the troubles of someone who is already desperate . . . do not turn your back on a poor [disabled, injured, imprisoned, *etc.*] person.

Sirach 4:3, 4:4-5 TEV

It is **KINDNESS** [safe and humane treatment, *etc.*] I want, **NOT ANIMAL SACRIFICES** [barbaric practices, cruel and unusual treatment or punishment, *etc. etc.*] . . .

Be ye therefore merciful/as ye would that men should do to you.
Matthew 9:13 TEV; Luke 6:36/6:31 KJV

And Jesus concluded, Whenever you refused to help [relieve, be kind to, *etc.*] **ONE OF THESE LEAST IMPORTANT ONES** you refused to help [be kind to, *etc.*] me . . .

Prejudice is wrong.

Matthew 25:45 TEV; Proverbs 28:21 TEV

4. As at the date of this *Claim*, the Defendant has the plaintiff in Her custody and care by her Correctional Service of Canada (“CSC”), a Creature of Statute existing under God and the Crown in and by S.C. 1992 c. 20 and as am., a.k.a. *Corrections and Conditional Release Act* (the “*CCRA*”), Part I pursuant to s. 5 thereof, and not and never otherwise. In having the plaintiff in Her care and custody under God and the Crown, the Defendant, Her servants, agents and workmen, are to do so kindly in every manner that is “**safe and humane**” and not, and never, otherwise in accordance with the purpose of “**the federal correctional system**” declared by s. 3(a) in context of s. 69 of the *CCRA*, and with no person in Her employ or otherwise to “**administer, instigate, consent to or acquiesce in any** cruel, inhumane or degrading treatment or punishment of an offender” as the expression “offender” is defined under the *CCRA*, s. 2(1) “**offender**”.

5. For greater certainty further to paragraph 4 above, the Defendant has the plaintiff in Her custody by public service employees, a.k.a. public servants, workmen or agents assigned to staff her CSC, and whether they are identified on this Claim or not as unknown to the plaintiff, for whose acts or omissions the Defendant is and at all material times has been vicariously liable.

6. The plaintiff resides under the Defendant’s supervision at Bath Institution (“BI”), Canada. BI is a CSC, lower medium security prison located in the CSC’s Ontario Region at or near the City of Kingston (“Kingston”). Kingston is located in Frontenac County, province of Ontario (“Ontario”).

7. Until ± 2012, the Defendant owned and operated a fleet of CSC inmate transportation vehicles. These vehicles appeared reasonably “safe and humane” and provided ample security and public safety protection. In particular, they were not “cruel, inhumane or degrading” in the transportation of offenders.

8. *Circa* 2012, the Defendant replaced or modified Her fleet of CSC inmate transportation vehicles such that her CSC inmate transportation vehicles as replaced or modified now became “cruel, inhumane or degrading” and barbaric in their treatment or punishment of an offender in breach of the Crown’s duty towards the subject pleaded in paragraph 2 above.

9. The CSC inmate transportation vehicles as replaced or modified were condemned by the Correctional Investigator of Canada (“CIC”) as “totally devoid of any comfort or safety feature, including seatbelts” as if “personal safety and human dignity did not matter”. Particulars of which condemnation as expressed by the CIC and relevant to this Claim are set out in **ANNEX A** attached hereto.

10. On or about Saturday the 31st day of December, 2016, the plaintiff suffered a job-site injury on the Defendant’s property at Collins Bay Institution (“CBI”). His job-site injury was subsequently diagnosed at Kingston General Hospital (“KGH”) as involving “multiple compressive epidural abscesses in the lumber spine” with, *inter alia*, “antigravities in his lower extremities”. In other words in layman’s terms, the plaintiff suffered a back injury of a serious and emergency nature.

11. Instead of immediately taking him to KGH on an emergency basis for essential health care, the Defendant left the plaintiff in severe pain. She delayed getting him to KGH for proper medical diagnosis until Thursday the 12th day of January, 2017. The plaintiff pleads and relies upon s. 86(1)(a) of the *CCRA* in context of s. 69 thereof.

12. In aggravation of her delay, the Defendant next transported the plaintiff to KGH as of Thursday the 12th day of January, 2017. She did so by way of CSC inmate transportation vehicle described in paragraphs 8 and 9 above.

13. In so doing, the Defendant by her CBI public service employees acted in contravention of s. 69 of the *CCRA* to administer, instigate, consent to or acquiesce in cruel, inhumane or degrading treatment or punishment of the plaintiff such that the plaintiff was put to additional, and severe, pain and suffering, assaulted and battered, and subjected to excessive use of force, cruel, inhumane or degrading and barbaric conditions.

Particulars of Treatment or Punishment

- 1)** Shackled the plaintiff and applied chains and handcuffs to him in utter disregard of his injury, pain and suffering and in contempt for him.
- 2)** Then in purpose or effect stuffed the plaintiff into the back end of one of her notorious CSC inmate transportation vehicles described in paragraph 8 above.
- 3)** The back end of said notorious CSC inmate transportation vehicle had welded into it a small 'cage' of the small metal box variety in which the Defendant required the plaintiff to squeeze himself into.

- 4) Squeezing the plaintiff or making the plaintiff squeeze himself into said cage sideways so as to further greatly aggravate his pain and suffering.
- 5) Making the plaintiff ride over bumpy road conditions seated inside said cage over the vehicle wheel well without spring-cushioned seating inside said cage, the interior conditions of which were dark, cramped, virtually airless, and claustrophobic, totally devoid of any comfort or safety feature, including seatbelts, as if his personal safety and human dignity did not matter to the Defendant.

Particulars of Excessive Use of Force, Assault and Battery

- 1) Unnecessarily applied handcuffs to the plaintiff as a matter of 'policy' arbitrarily applied without discretion and, in his case, without proper cause at all for so doing against *Commissioner's Directive* ("CD") 001, Para. 1 "**Our Mission . . . RESPECTING the rule of law**" as to the *CCRA*, ss. 68, 69, and Para. 2 "**CSC Values Statement**" re "**Respect . . . discretionary judgement**" as to s. 86(1)(a) in context of s. 3(a) of the *CCRA*.
- 2) Aggravated the unnecessary use of handcuffs by heavy metal cover and padlock applied to the handcuffs, doing so as a matter of 'policy' blindly and unnecessarily applied without discretion and, in his case, without proper cause at all for so doing against *CD 001*, Para. 1 "**Our Mission . . . RESPECTING the rule of law**" as to the *CCRA*, ss. 69, 69, and Para. 2 "**CSC Values Statement**" re "**Respect . . . discretionary judgement**" as to s. 86(1)(a) in context of s. 3(a) of the *CCRA*.
- 3) Touched and otherwise came into contact with the plaintiff's body upon Her inappropriate application of handcuffs, heavy metal cover and padlock.

Particulars of Barbaric, Cruel, Inhumane, and Degrading Treatment or Punishment

- 1) From CBI onwards to KGH, put the plaintiff inside a 'sardine can' style CSC prisoner transport van metal cage shown in **ANNEX A** as Particulars.
- 2) Said cage was largely airless and measured a cramped $\pm 2\frac{1}{2}' \times 2\frac{1}{2}' \times 4\frac{1}{2}'$ (± 0.762 metres x 0.762 metres x 1.38 metres) as though he was a federal ISIS-style, terrorist threat to national security.

14. In acting as described in paragraph 13 above, the Defendant by her CSC acted in misfeasance of public office in that she:

(a) if She acted within CSC's authority or power (the plaintiff does not admit She did), the Defendant did so for an improper purpose, namely to to administer, instigate, consent to or acquiesce in cruel, inhumane or degrading treatment or punishment of the plaintiff;

alternatively,

(b) the Defendant acted knowing that CSC is without statutory authority to act in contravention of the CCRA, s. 69, and that Her actions were likely to aggravate the plaintiff's injury, pain and suffering, and not caring.

15. As a result of the Defendant's excessive use of force, assault and battery, barbaric, cruel and unusual, treatment or punishment, the plaintiff suffered injury, damage and loss, pain and suffering, of a significant nature and his constitutional rights under the *Charter* have been infringed or denied.

**Particulars of Injury, Damage, and Loss,
Pain and Suffering**

- 1)** Spine-numbing, and body cramping, immobility throughout inside the barbaric cage in the back end of a CSC "Inmate transport minivan" shown in **ANNEX A** hereto as Particulars included herewith.
- 2)** Severe, ongoing back pain.
- 3)** Chest pains.
- 4)** Painful swelling of both hands from handcuffs.
- 5)** Painful, ruptured blood vessels on both wrists from handcuffs.

- 6) Painful broken skin on both hands from handcuffs.
- 7) Sprained or otherwise twisted ankle likely from leg irons.
- 8) Physical and mental deterioration to the extent that the plaintiff was rendered psychologically incapacitated for some time.
- 9) Very great, continuing duress and anxiety.
- 10) Very great, continuing mental distress.
- 11) Very great humiliation and embarrassment.

**Particulars of the Infringement or Denial
of the Plaintiff's *Charter* Rights**

- 1) Subjected the plaintiff to cruel and unusual treatment or punishment in violation of s. 12 of the *Charter* throughout contrary to "**the Laws of God and the true profession of the Gospel**" cited, linked and aligned, on their true construction and interpretation in paragraph 3 above concerning prisoners and their treatment under God and the Crown.
- 2) In the above premises, infringed or denied the plaintiff's right under s. 7 of the *Charter* to "**life, liberty and security of the person**" in the administration of the *CCRA*, Part I, in accordance with the Crown's constitutional duty towards the subject.
- 3) In the above premises, infringed or denied the plaintiff's right under s. 7 of the *Charter* to not be deprived of "**life, liberty and security of the person**" in the administration of the *CCRA*, Part I, "**except in accordance with the principles of fundamental justice**" implicit in the Crown's constitutional duty towards the subject.

16. In aggravation of damages, and in support of exemplary or punitive damages, the plaintiff pleads and relies upon: **1)** the Defendant's abuse of public office in contravention of the *CCRA*, ss. 68 and 3(a) respectively, by, in purpose or effect,

punishing the plaintiff for his back injury upon applying instruments of restraint to him as, in purpose or effect, punishment; **2)** the Defendant's abuse of public office in contravention of the *CCRA*, ss. 69 and 3(a) respectively, by administering, instigating, consenting to or acquiescing in the cruel, inhumane or degrading treatment or punishment as pleaded above; and **3)** conduct by the Defendant prolonging or tending to prolong rather than securing for the plaintiff the just, most expeditious and least expensive determination of this action.

Relief Sought

The plaintiff therefore claims:

1. A declaratory order as to the plaintiff's rights under the *CCRA*, Part I pursuant to ss. 68 and 69, as to proper treatment of CSC inmates with hospital access transportation needs.
2. Damages, including general damages, aggravated damages, and exemplary or punitive damages, or any of them, in the aggregate amount of \$1 Million for all injury, damage and loss, pain and suffering.
3. Alternatively, remedy under s. 24(1) of the *Charter* as to This Honourable Court seems appropriate and just in the circumstances by way of relief in the nature claimed in paragraphs 1 and 2 above.

4. Such further and other relief as the plaintiff may claim, including his costs necessarily incurred in bringing this action.

DATED at Bath Institution, Canada, province of Ontario, this Saturday the 19th day of January, A.D. 2019.

Signature: |

PRINTED NAME: |

Kenneth Reid

Plaintiff,
per Rule 122 i

Bath Institution, Canada

MAILING: P.O. Box 1500,
5775 Bath Road
Bath, Ontario
K0H 1G0

Tel: (613) 351 – 8346

Fax: (613) 351 – 8039

EN/mf

TO: HER MAJESTY THE QUEEN,
Defendant

per: Rule 133,
Federal Courts Rules

DR IVAN ZINGLER,
Correctional Investigator of Canada

per: Office of the Correctional Investigator
P.O. Box 3421, Stn. D
Ottawa, Canada
K1P 6L4

issued By: *Annie Ruhlmann*



**ANNIE RUHLMANN
REGISTRY OFFICER
AGENT AU GREFFE**

90 Sparks Street / 90, rue Sparks
Ottawa, Ontario / Ottawa (Ontario)
K1A 0H9

On March 14, 2019

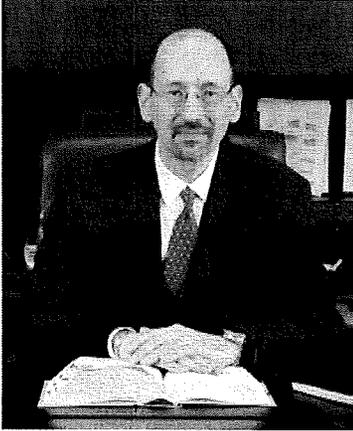
ENDNOTES

¹ **WITHOUT PREJUDICE**: For all purposes of the judgments of the Supreme Court of Canada in *Newfoundland (Attorney General) v. N.A.P.E.*, [1988] 2 S.C.R. 204 at 213 *c-d*, 1988 CanLII 59 at para. 16 [N.A.P.E.], and in *B.C.G.E.U. v. British Columbia (Attorney General)*, [1988] 2 S.C.R. 214 at 219 *h-l*, 236 *g-j*, 237 *c-d*, [1988] S.C.J. No. 176 (QL) at paras. 1, 39, 41, 1988 CanLII 3, 44 C.C.C. (3d) 289, 53 D.L.R. (4th) 1 [B.C.G.E.U.], the plaintiff is necessarily assisted by way of threshold assistance of a McKenzie Friend of his choice in accordance with the *Statement of Principles on Self-represented Litigants and Accused Persons* (2006) issued by the Canadian Judicial Council, and endorsed this Tuesday 18 April 2017 by the Supreme Court of Canada in *Pintea v. Johns* 2017 SCC 23, per Karakatsanis J. that “[W]e endorse the Statement of Principles on Self-represented Litigants and Accused Persons (2006) established by the Canadian Judicial Council.”: and see *McKenzie v. McKenzie* [1970] 3 All E.R. 1340; *Children’s Aid Society of Niagara v. P.(D.)*, 2002 O.R. (3d) 668; *Moss v. NN Life Insurance Co. of Canada* (2004), 180 Man. R. (2d) 253.

PARTICULARS — ANNEX A,
next page

PARTICULARS — ANNEX A

CORRECTIONAL INVESTIGATOR'S MESSAGE ⁵



[p. 2] This is my first Annual Report since being appointed Correctional Investigator in January 2017. Since taking up office, I have made a point to travel to each of the Correctional Service of Canada's (CSC) five regions to meet with staff and visit as many institutions as time away from the Office would allow. Though I previously served as Director of Policy and Senior Counsel then Executive Director and General Counsel for over ten years, my new responsibilities afforded me the opportunity to take a closer and renewed measure of life behind bars in Canada today

[pp. 4,5] At a medium security facility in British Columbia **I SAT SCRUNCHED AND STOOPED** in the back of a prison

transport van, the insert of which is completely outfitted in aluminum and stainless steel hardware. The compartment where shackled prisoners are kept to take them to attend court or medical appointments ***is totally devoid of any comfort or safety feature***, including seatbelts. The experience left me feeling as if **personal safety and human dignity did not matter** to the designers or operators of such vehicles.

[p. 46]

Prison Transport Vans

I mentioned in my opening message **the claustrophobic experience I had** in sitting scrunched in the back of one of CSC's security escort vans which are used to take prisoners to attend court or medical appointments. The experience ***left me feeling as if personal safety and human dignity did not matter*** to the designers or operators of such vehicles. Completely enclosed in metal, the compartment insert where shackled prisoners are kept **is totally devoid of any comfort or safety feature**, including seatbelts.²⁷ These vehicles, which are essentially retrofitted and modified family minivans (e.g. Dodge Caravan), ***were never designed or crash-tested*** with a metal compartment of this size. Should there be an accident, as occurred in New Brunswick in 2013, individuals within the compartment would literally be thrown around inside, which could result in critical injury or even death. My Office and some CSC staff who operate these vehicles have brought these design and safety concerns forward to the Service in the past. This mode of conveyance does not befit safe and humane transport. In response, rather than express a willingness to bring their security escort fleet up to industry safety standards (as used by the RCMP), the Service simply recites that its modified vehicles meet the manufacturers' weight load capacity and are compliant with the federal *Motor Vehicle Safety Act*. This position simply fails to acknowledge the fact that the design is fundamentally unsafe and untested. Furthermore, there are no federal guidelines for inmate transport vehicles.

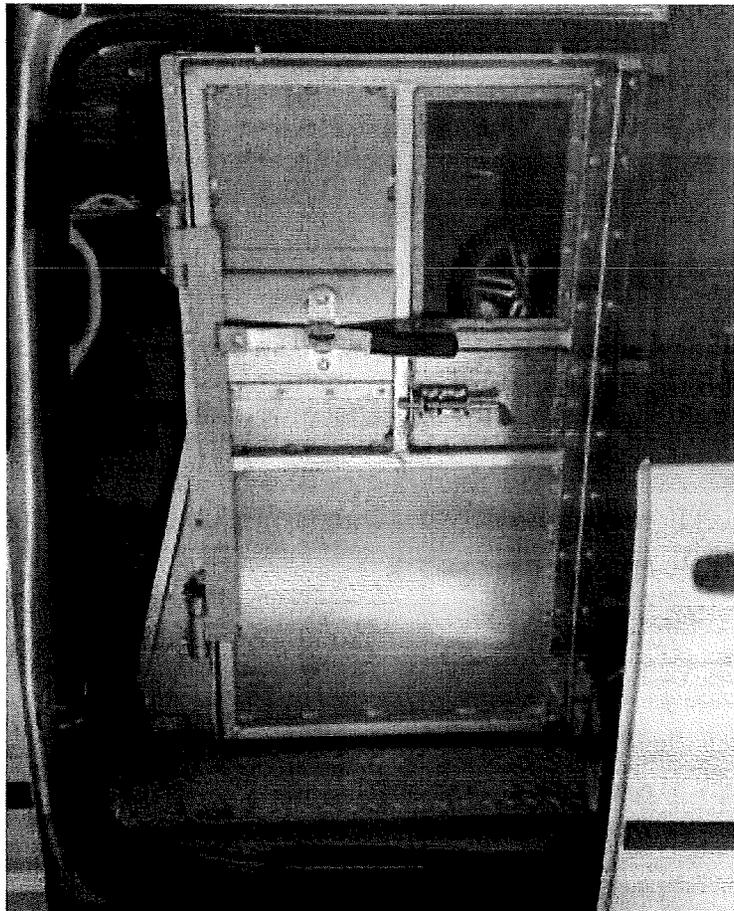
⁵ Edited for viewability and as to relevant portions, with emphasis added as to salient points.

PARTICULARS — ANNEX A (continued)

11. I recommend that, over the next two years, CSC remove the current fleet of security escort vehicles (small minivans) as THEIR DESIGN IS SUBSTANDARD AND UNSAFE and replace them with larger vehicles meeting industry standards in policing (e.g. RCMP).

Ivan Zinger, J.D., Ph.D.
Correctional Investigator
June 2017

1



CSC inmate transport minivan

²⁷ CSC claims that the inserts are not fitted with seatbelts to ensure the security of correctional officers – i.e., staff do not have to be in direct contact with inmates when getting into or out of the inserts. The front seats are equipped with seatbelts and airbags.

PARTICULARS — ANNEX A (continued)

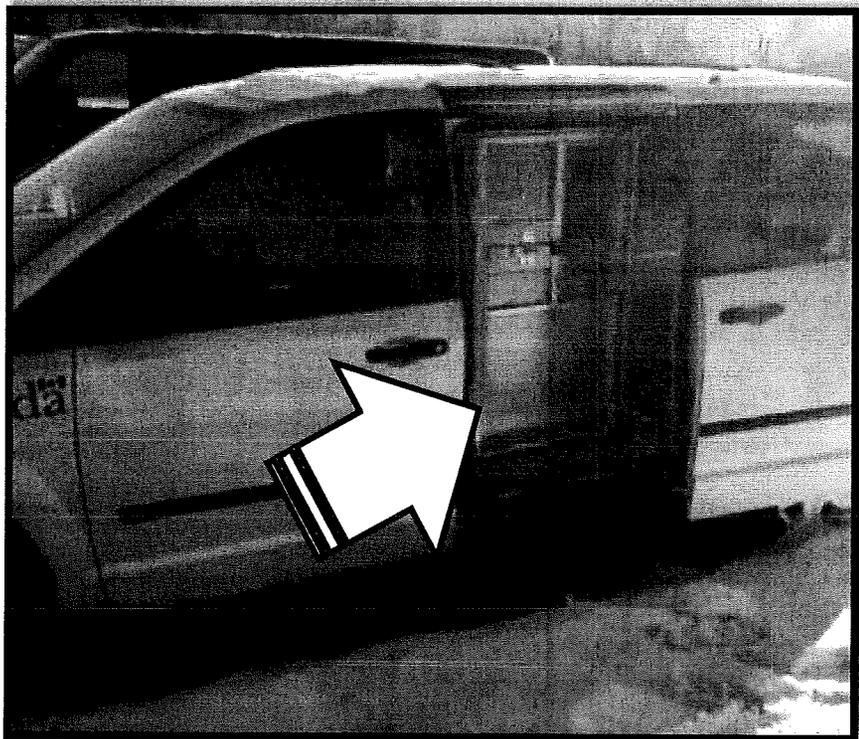


2



CSC
hand

Largeness of hand shows
smallness of cage door
and of inside cage and
cage bench.



3

