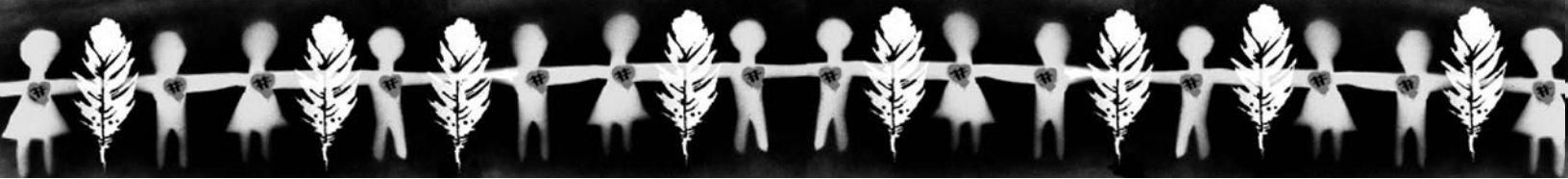


BROKEN PROMISES

Parents Speak about
B.C.'s Child Welfare System





LIST OF CONTRIBUTORS

Authors

Darcie Bennett, Lobat Sadrehashemi

Advisor

Katrina Pacey

Layout

Iva Cheung, based on design
by Brad Hornick Communications.

Artwork

Front cover illustration, border design,
and section title image by Tania Willard.
Main illustrations in text by Jordan
Bent.

Publications manager

Paul Ryan

Support

Janine Althorp
Amie Anderson
Brenda Belak
Michael Bradshaw
Deanna Brummit
Hendrik Beune
Marilyn Callahan
Karyn Calvez
Mairi Campbell
Jorge Campos
Elaine Chau
Mandy Cheema
Emma Cunliffe
Emma Day
D.J.
Laurie
Lauren Gehler

Giles Grierson
Melissa Grover
Erin Hansen
Anne-Mette Hermansen
Mark Hargrave
Penny Irons
Lily Lok
Anthony Maitland
Emily Mayne
Stephanie Mayor
Lisa Nevens
L. Marie Nixon
Josh Paterson
Jane Pulkingham
John Richardson
Carrie Robinson
Carol Rosset
Shari
Ronald Strand
Grace Tait
Brian Wharf
Peter Wrinch

Workshop support

Atira Women's Resource Society
Aboriginal Mother Centre Society
The Kettle Friendship Society
Peardonville House Treatment Centre
YWCA Crabtree Corner

Dedication

This report is dedicated to parents
everywhere who are struggling to keep
their families together against the odds,
and to the 9,271 children in care in
British Columbia.

Funder

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with their stories.

Every legal problem is unique. The legal
analysis in this report is general and
provided for information purposes only.
If you have a legal problem, call Law
Line at (604) 408-2172 for assistance or
speak to a lawyer.

Pivot Legal Society
678 East Hastings Street
Vancouver, B.C. V6A 1R1
www.pivotlegal.org

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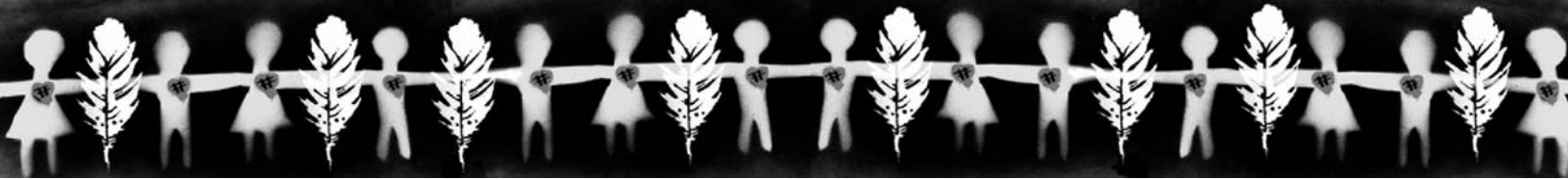
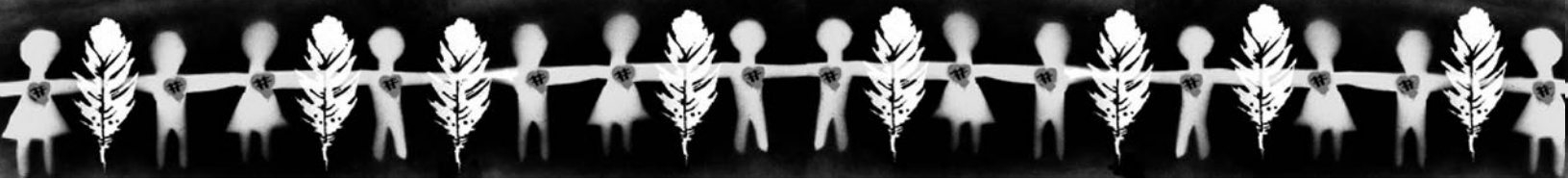


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EXECUTIVE SUMMARY

British Columbia is in the midst of a child welfare crisis. One out of every five children in the province lives below the poverty line.¹ Over 9,271 children are living in foster care, more than half of whom are Aboriginal.² For generations the system has consistently failed children and their families in spite of legislative reform, internal reorganization and changing governments.

In 1996 the *Child Family and Community Services Act* (“*CFCSA*”) came into force, promising a new direction for child welfare in British Columbia. This forward thinking legislation promised a different style of service provision dedicated to supporting families to care for children in the home, improving services for Aboriginal families, using apprehension only as a last resort, and reunifying children as quickly as possible when temporary placement is necessary.

This report examines whether child protection practices are living up to the principles set out in the *CFCSA* – the foundation of B.C.’s child protection system. **Our conclusion is that current child protection practices in B.C. violate the guiding and service delivery principles that are set out in law.** We find that the system, despite legislative reform, internal reorganization and changing governments, is failing to follow its own mandate and keep its promise to keep B.C.’s children safe.

This report looks at the child welfare system from a number of perspectives, including those of service providers, social workers, and lawyers representing parents in child protection cases. However, the major focus of this report is the experiences of parents whose children are or have been involved with the child protection system. These voices have often been silenced in the debate surrounding child welfare reform. This report highlights the important and unique insights that these parents have into the strengths and weaknesses of B.C.’s current system. Their participation in this project is a testament to their commitment to helping improve the system for families.

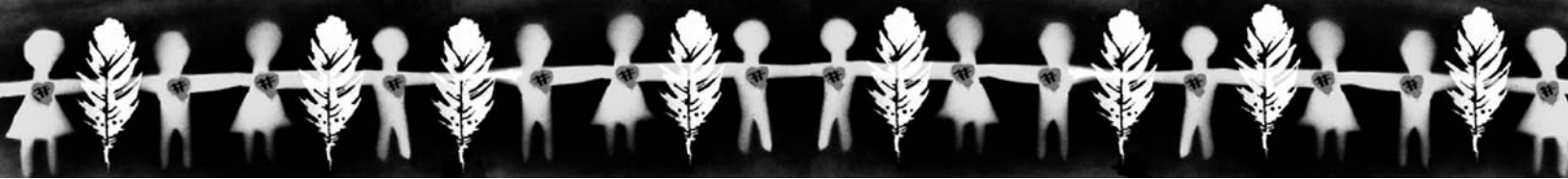
As a whole, this report argues that the system continues to fail to address the systemic factors impacting children’s well being, such as poverty, the legacy of colonialism and the lack of social supports for single mothers. We conclude that as long as those systemic factors

are ignored, B.C.’s government is not in a position to claim that it is genuinely acting in the best interest of children.

Supporting families to care for children in the home

Physical abuse and sexual abuse are not the primary reasons that children are removed from their parents. In fact, physical harm by a parent was only cited as a ground for removal in ten percent of child protection cases in the Lower Mainland. Sexual abuse or exploitation by a parent was cited as a reason for removal in less than one percent of cases.³ Apprehensions are generally the result of a parent’s struggle with poverty, addiction, mental health issues or family violence. The government’s lack of commitment to providing publicly funded services has severely undermined the ability of the Ministry of Children and Family Development (“Ministry”) to take a preventative approach to child protection issues.

- **Poverty:** Inadequate income assistance rates, the lack of safe and affordable housing, costly public transit and inaccessible childcare all negatively impact the ability of poor women to care for their children.
- **Mental health:** People with mental health diagnoses and/or learning disabilities face discrimination as parents. Additional supports would assist them in caring for their children.
- **Domestic violence:** Women survivors of violence are poorly supported and, at times, re-victimized by the child protection system which sees them as making poor choices and failing to protect their children.
- **Drug and alcohol use:** There is an urgent need for enhanced treatment and harm reduction options for mothers struggling with addiction.



Improving services for Aboriginal families

Aboriginal children are nearly ten times more likely to be in care than non-Aboriginal children. In spite of growing awareness of the systemic impacts of the residential school system and foster care system on Aboriginal families, child protection cases continue to be handled on an individual basis that ignores the systemic nature of the problem. While the Ministry has taken some steps towards preserving the cultural heritage and kinship network of Aboriginal children, in 2006, the number of Aboriginal children in care surpassed the number of non-Aboriginal children for the first time. Less than 16 percent of these children are placed with an Aboriginal caregiver.

Apprehensions as the last resort

The *CFCSA* recognizes that the removal of a child from their family home is a very serious intervention and that the least disruptive measure should always be used in determining a safety plan for children. However, the spirit behind this principle is lost where there are inadequate resources in place to employ the “least disruptive” intervention. The problem is twofold: social workers often do not have time to do a proper assessment of the alternatives to apprehension for a family; and even when social workers have the time, the resources to which they would like to direct families do not actually exist. The lack of supportive and preventative services is not only a violation of the provisions of the *CFCSA*, it is indicative of a short-sighted, crisis driven style of child protection work that fails to support the integrity of families or the best interests of children.

Reunifying families

Little emphasis is placed on return planning once a child is taken into care. Parents reported that they are given little direction in terms of what is expected of them before their children can be returned. In some cases when a parent feels they have understood and addressed the Ministry’s expectations, a series of new expectations arise, further delaying the return of the child. In other cases, the resources needed to fulfill the expectations are not available or have long waitlists. The ambiguity in the Ministry’s expectations and the inordinate delays involved in communicating with social workers lead mothers to lose hope that their children will ever come home.

The child protection process: Barriers to effective service delivery

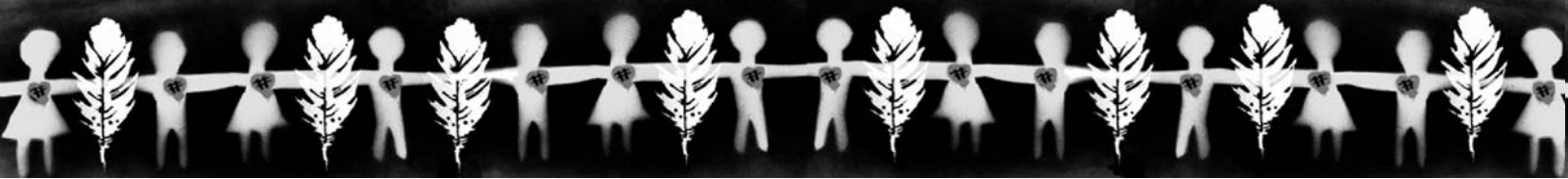
The child protection system is purported to be oriented toward family supports and ensuring the best interests of the child. However, there are multiple barriers to effective service delivery.

The web of surveillance: Mothers living in poverty are subject to a high degree of scrutiny by the Ministry of Children and Family Development, other government ministries and by the general public. As a result these mothers experience stress and distrust and may be reluctant to reach out for help in times of need, particularly when they believe that disclosing their personal difficulties could result in their worst fear – the removal of their children. As a government ministry that is mandated to provide the services necessary to assist and strengthen families, their investigative role inevitably creates a barrier to building trusting relationships with families.

Transparency: Parents are consistently deprived of basic information related to their case at every stage of the child protection process. Being informed about the Ministry’s concerns is crucial for parents to be able to take steps to improve their circumstances and work towards the return of their child. Parents reported not being told that an investigation was underway, or informed of the steps they need to take to have their children returned. Despite the duty of social workers to keep parents informed about the status of their file and the plan for their child, mothers felt they were consistently uninformed and sometimes given misinformation.

Placements and visits: Children taken into care continue to be placed far from their family, siblings, and community, often in culturally inappropriate homes. Parents and grandparents are also concerned about the low priority placed on ensuring visits with children, the way in which visits are supervised, and the lack of accountability when visits are cancelled. A number of parents are very upset about the quality of care their children are receiving and the Ministry’s lack of responsiveness when they voice their concerns. The *CFCSA* principle to preserve kinship ties and a child’s attachment to the extended family is, in many cases, not being observed.

The role of the social worker: Social workers must play a dual role which can be highly problematic in terms of their



relationship with parents. They play a supportive role where they are supposed to build trust with a parent and provide the appropriate services and resources. On the other hand, they are investigators who may eventually make the decision to apprehend or not return a child. These competing roles can impede the creation of trust or rapport between the parent and social worker. There is also a very high turnover rate among social workers which creates a lack of continuity. Huge caseloads can make it impossible to respond quickly to changes in parents' lives and appreciate the strides parents are making to address the Ministry's concerns.

The court system: The Courts play an important role in the child protection system as decision-maker and reviewer of child protection cases. Parents describe the court system as not only overwhelming in its complexity, but also plagued with inordinate and unreasonable delays. Many parents reported that while they had legal representation they did not feel adequately informed of what to expect at court dates and often did not understand what had happened in court. Delays throughout the court process leave many parents feeling hopeless and unheard. The court system, which is intended to be an oversight mechanism to ensure that child protection laws are being applied appropriately, is viewed by parents as doing too little too late.

A broken system

This study is by no means the first to identify these shortcomings of the child protection system. The *CFCSA* was brought into force, in part, to address some of the very problems identified in this study, yet little has changed. The child welfare system is in desperate need of a new approach in order to live up to the promise of its own legislation.

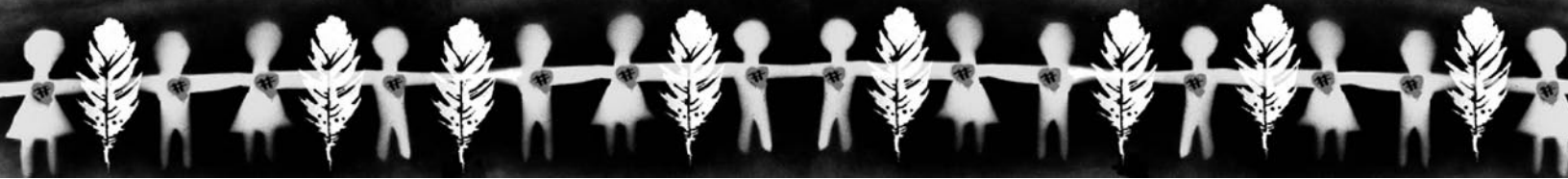
B.C.'s child protection system remains crisis driven. Child protection social workers have too many cases and too few resources for prevention or to address underlying social or economic problems. The courts are backlogged, and child protection teams do not have the time or resources to work

toward family reunification. The end results are apprehensions that could be avoided and children lingering in care.

Taking children into government care in order to ensure their safety and well-being is not working. Outcomes for children coming out of the foster care system are devastating. Seventy-three percent of youth involved with the young offenders system in B.C. are also involved with the child protection system.⁴ Only 21 percent of former youth in care graduate, compared with 78 percent of the general population.⁵ In B.C., young women who are in the permanent care of the province are four times more likely to become pregnant than other young women who have never been in care.⁶ When these children become parents they disproportionately lose their own children to the foster care system. Sixty-five percent of the parents that took part in this study spent time in the foster care system themselves as children. The key to reversing these trends lies in supporting vulnerable families before, during, and after a time of crisis.

The historical relationship between Aboriginal families and the government has had long-term negative social and economic consequences that are still being felt today. These families continue to be poorly served by the child protection system. Improving the system for Aboriginal people will require a concerted effort to address the levels poverty and discrimination affecting Aboriginal people across the province as well as a genuine commitment from the government to support Aboriginal people in developing child protection strategies that meet the needs of families and communities.

The child protection system can only begin to truly satisfy its mandate to serve the best interests of children if decision makers embrace the principles laid out in the *CFCSA*. Without a genuine commitment to implementation, progressive principles cannot repair this broken system. Implementation will necessarily require a long-term commitment and substantial resources. As the government of British Columbia, yet again, considers reforms to the child protection system we hope that this time the voices of vulnerable families will be heard.



GLOSSARY OF TERMS

Access: generally means the time children spend with the parent with whom they do not usually live. However, access is not limited to the parent who does not have custody – any person can apply for access to a child (including grandparents, aunts and uncles, and other relatives). Supervised access refers to access that is required to be monitored by a social worker or another approved adult.

ADHD (attention deficit hyperactivity disorder): a diagnostic term applied to children and adults who display problems with impulsivity, hyperactivity, boredom and inattention. ADHD is a neurologically based disorder.

Child in care: any child under 19 years of age living under the care or guardianship of the Ministry of Children and Family Development.

Child in the home of a relative: a program, administered through the Ministry of Employment and Income Assistance, available in cases where a child has been placed with a relative with the consent of the parent and the parent does not reside in the home with the child.

Community living: refers to support given to adults with developmental disabilities and children with special needs including autism spectrum disorder and developmental disabilities; reflects the philosophy of returning ownership for decisions about care for these individuals to their families and communities, as opposed to the former practice of institutionalization.

Community living B.C.: the provincial authority with responsibility for the provision of community living support.

Continuing custody order: refers to an order placing a child in the ongoing care of a Director of Child Welfare. The court will make a continuing custody order if it finds that there is no significant likelihood that the circumstances that led to child's removal will improve within a reasonable time and/or that the parent will be able to meet the child's needs.

Director of Child Welfare (the Director): a person, designated by the Minister to exercise the Minister's powers under the *Child, Family and Community Services Act*. The Director has the authority to delegate his/her authority to child protection workers.

Family conference: dispute resolution meeting where members of a child's immediate and extended family, and other persons involved in the child's care, develop a plan to ensure the child's safety and well-being.

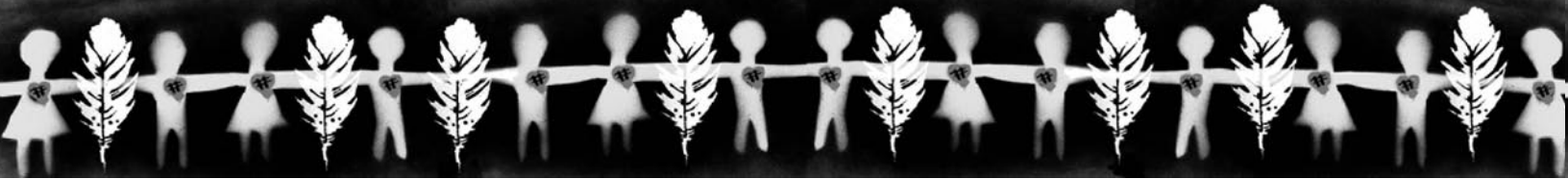
FAS (fetal alcohol syndrome): a condition that results from prenatal exposure to alcohol. Drinking during pregnancy places the baby at risk for fetal alcohol syndrome. The effects of this condition are irreversible and can include serious physical, mental and behavioural problems which vary from child to child.

FASD (fetal alcohol spectrum disorder): is the term used to describe the range of effects caused by drinking alcohol during pregnancy. These effects may include physical, mental, behavioural and/or learning disabilities with possible lifelong implications.

Former youth in care: a young person who has turned 19, has been returned to his/her family or has been adopted and is no longer living under the care of the Ministry.

Interim order: Any order made before a trial and intended to be temporary.

Judicial case conference: In the child protection context, a case conference is a meeting with a judge, the parent, the parent's lawyer, the social worker and his or her lawyer. No court orders can be made at a case conference unless there is consent of all of the parties. A judge acts as a mediator during the case conference and can facilitate an agreement on any issues of dispute between the parties that do not require the hearing of evidence. If no agreement is reached between the parties, this time can be used to prepare for trial. A case conference is an opportunity for a judge to review the adequacy of the disclosure of parties and make orders with respect to disclosure and intended witnesses. The judge can also give a non-binding opinion based on the limited evidence of the probable outcome of the hearing.



Kinship care agreement: an agreement where a family member or friend is approved to care for a child.

MCFD (Ministry of Children and Family Development): the ministry responsible for a wide variety of regionally and provincially delivered programs for children, youth and families. Some of the services include: family development, early childhood development, services for children and youth with special needs and their families, child care, child protection, residential and foster care, adoption for children and youth permanently in care, community child and youth mental health, programs for at-risk or sexually exploited youth, and community youth justice services.

Mediation: an approach to solving disputes in which a third party intervenes to help two opposing parties settle a problem. Usually mediators are individuals who are specially qualified to help people reach agreements.

Neonatal abstinence syndrome: a term for a group of problems an infant experiences when withdrawing from exposure to narcotics during pregnancy. In addition to specific difficulties of withdrawal after birth, problems may include, but are not limited to: poor intrauterine growth, premature birth, seizures and birth defects.

Parental capacity assessment: an assessment normally requested by the Ministry to determine whether the parent has the capacity to care for the child; the assessment is done by a psychologist or psychiatrist; there is no standard practice as to how these assessments are done.

Plan of care: details the specific services that will be provided to meet the needs of a child in the care of the Ministry.

Presentation hearing: the initial court hearing after a child is removed from the home. This hearing is held within seven days of the child's removal.

Protection hearing: a hearing to determine whether a child needs protection and which particular order is appropriate in their case. This process must be started within 45 days of the conclusion of the presentation hearing.

Risk reduction plan: a portion of a service plan that outlines how specific risks to the child will be addressed and reduced.

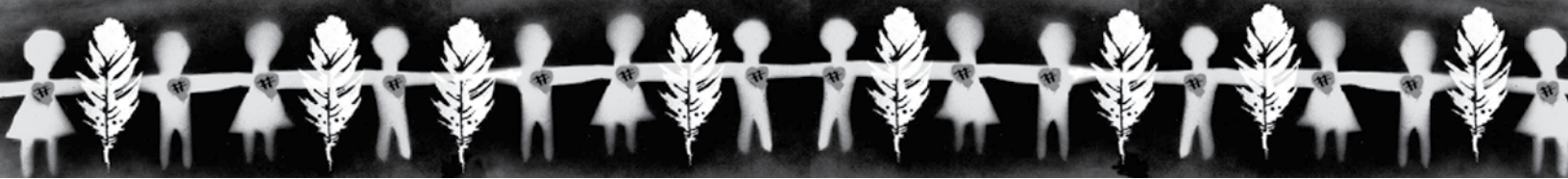
Service plan: a plan detailing which specific services will be provided to a subject child and to his or her family. It includes specific objectives and time frames for meeting stated objectives. This plan may also detail the family's responsibilities.

Supervision order: a court order returning or placing a child in the custody of a parent or other person under specific conditions for a prescribed period of time.

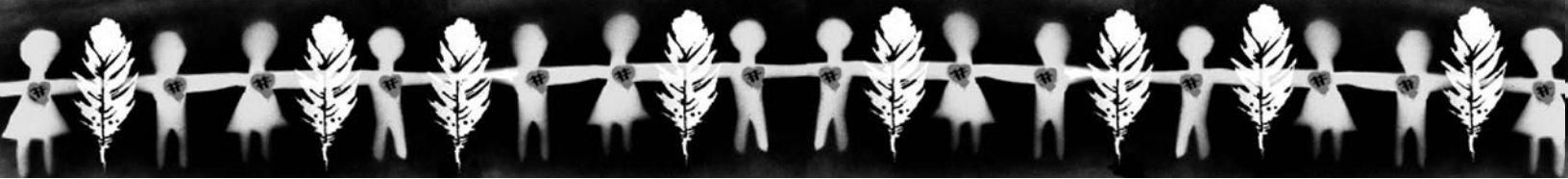
Temporary custody order: refers to an order placing a child in the custody of a Director or another person for a specified period of time. Maximum time limits for temporary custody orders are set out in legislation.

VACFSS (Vancouver Aboriginal and Child Family Services Society): an Aboriginal non-profit society providing services to Aboriginal children and families living off-reserve in the Metro Vancouver area. At the time of writing, VACFSS social workers do not have the power to remove children but can take responsibility for guardianship services and provide support services to families involved with the child protection system. VACFSS is moving toward delegated status, which would grant the society the authority to enforce any part of the legislation.

Voluntary care agreement: an agreement negotiated between the Ministry and the parent with respect to arranging care for the child for a limited period of time.



PART ONE – THE CONTEXT
PART TWO – A BROKEN SYSTEM
PART THREE – THE DECISION MAKERS
PART FOUR – VULNERABLE COMMUNITIES
PART FIVE – A VIOLATION OF PRINCIPLES



INTRODUCTION

In 1994, the *Child, Family and Community Services Act* (“CFCSA”) was enacted in British Columbia.⁷ This new piece of legislation was the result of a major consultation with both Aboriginal and non-Aboriginal communities and was meant, among other things, to ensure that apprehensions were used only as a last resort and that Aboriginal people were better served by the child protection system.

Since that time, successive ministers responsible for child welfare have proclaimed their commitment to the goals of supporting families to keep children safe and recognizing the distinctive relationship between Aboriginal people and the child protection system.⁸ These commitments have not been realized for families living in poverty, including Aboriginal families or for Aboriginal communities in general. In fact, the situation has become increasingly dire for those most impacted by the child protection system. The number of children in care has grown,⁹ with the number of Aboriginal children in care surpassing the number of non-Aboriginal children in care for the first time in 2006.¹⁰ This raises questions about whether or not the *CFCSA* has lived up to its promise from the perspective of the families and communities involved with the child protection system.

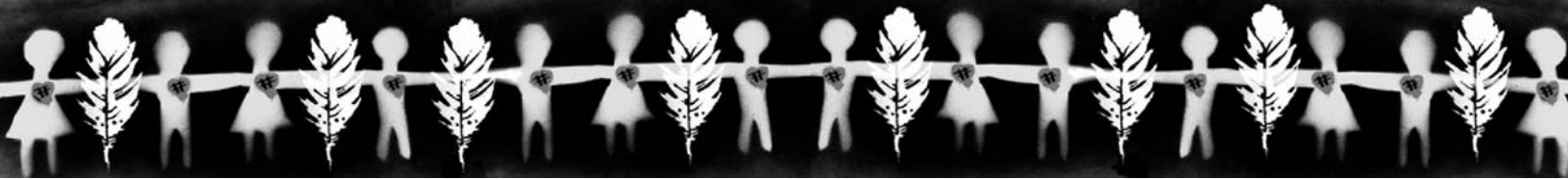
The release of Justice Ted Hughes’s *B.C. Children and Youth Review* in 2006 led to renewed focus on improving the child protection system in B.C. As a result of his review, a new position was created for an independent officer of the legislature who would act as a watchdog for parents, children and youth involved with the child welfare system.¹¹ Mary Ellen Turpel-Lafond was appointed as the Representative for Children and Youth in November of 2006. The provincial government is also preparing legislation for April 2008 to enable the establishment of permanent Aboriginal child welfare authorities.¹² Our hope is that the appointment of a new Representative for Children and Youth¹³ and a legal framework for the development of Aboriginal Authorities are only the first steps on the long road toward genuine

systemic reform. One goal of this report is to ensure that the voices of low-income parents and the Aboriginal community are included in discussions on child welfare reform. This report sets out to identify the reforms needed to address the concerns of B.C.’s most vulnerable families.

Scope of this project

Research for this report began in October 2006 as a natural extension of Pivot Legal Society’s effort to use the law to advance the interests of marginalized persons. Social workers, community-based service providers and members of the legal community all made invaluable contributions to this report. However, the overarching voice represented here is that of parents. There is a small body of work that has looked at the experiences of parents involved with the child welfare system in British Columbia,¹⁴ but by and large the perspectives of these parents have been omitted from discussions related to the functioning and reform of the child protection system.

In speaking with parents we heard stories of violations of the provisions of the legislation governing child removals, of discrimination on the part of social workers against Aboriginal families, of poor care of children in foster homes, and of policies that ensure that the most vulnerable women in society will continue to lose their children at a disproportionate rate. Some readers may feel that these women’s accounts are biased and therefore unfair to policy makers, social workers and other professionals involved with child protection system. We take the position that Ministry-involved parents have been given few



opportunities to provide input into discussions about system reform in spite of their vast first-hand knowledge. Hearing from parents about their experiences, their feelings and their complaints is not about shaming policy makers or front-line workers; rather, it is about bringing buried perspectives into the debate to present a more complete picture of the changes required to better protect British Columbia's vulnerable children, families and communities.

We embarked on this research with an eye toward addressing the high rate of child apprehensions from poor, mainly Aboriginal, families in the Downtown Eastside of Vancouver.¹⁵ Our goal was to document the experiences of women living in the area with the child protection system. However, as we began to talk to parents it became clear that child apprehension and the inadequacies of the child welfare system cannot be understood in isolation. Inadequate housing, poverty, domestic violence or mental health issues often precipitated Ministry involvement in a family's life. Nor did most of these stories begin in the Downtown Eastside. Interaction with the child protection system shaped many of the project participants' life trajectories, often beginning in their own childhoods. While the focus of this report remains on parents' experiences with the child protection system, it necessarily includes information about the communities, families and personal histories of the women who took part in this study and the range of other government institutions and policies that are inseparable from their child welfare cases.

A core element of this project has been the evaluation of parents' experiences against the guiding principles and service delivery principles set out in child welfare legislation. The inclusion of these principles in the legislation was the result of lengthy community consultations. There has yet to be any review of the implementation of the guiding principles and service delivery principles. Our evaluation revealed a near total failure to put the principles into practice.

We recognize that adhering to one reasonable piece of legislation will not solve all of the problems facing B.C.'s most vulnerable families. It is our position that until women's and children's poverty and the lack of services for survivors of abuse and people with disabilities of all kinds are addressed, better child protection practices will not, on their own, ensure better outcomes for vulnerable families. In addition, for many members of the Aboriginal community the only viable solution to the current child welfare crisis is to move toward complete self-government in this area. We do not suggest that better compliance with the current legislation could be a substitute

for genuine Aboriginal self-determination with respect to children and families.

Report overview

Part 1 – The Context

In the first section of this report we deal with the political and the personal context of parents' experiences with the child protection system. This section begins with a look at the evolution of child welfare law in British Columbia since 1981 when the first new piece of legislation since 1939 came into force. While the *Family and Child Services Act 1981* was the result of recognition that the child protection system was in need of modernization, the legislation failed to address many of the suggestions made by both professionals and impacted communities about the direction in which the child protection system should be moving.

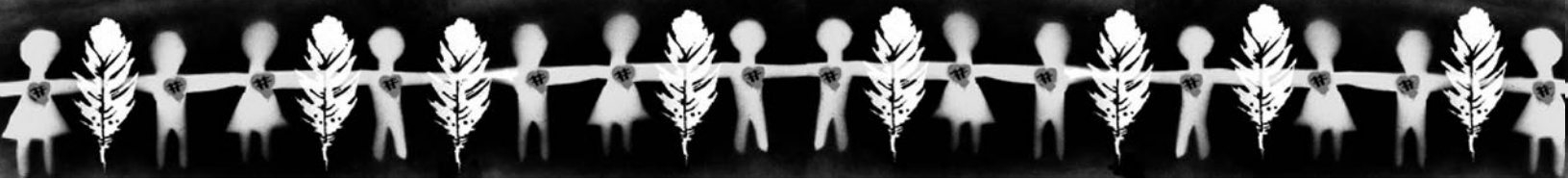
In 1992, in order to address dissatisfaction with child welfare practices, particularly among Aboriginal communities, the NDP government commissioned a public consultation process, the results of which would inform the development of new child welfare legislation. In this section, we examine the results of that consultation process and some of the positive impacts that it had on the shape of subsequent child protection legislation. We also look at other factors, such as funding imperatives and high-profile child death cases that have had an equal, if not greater, effect on how the system operates.

We conclude this section with an exploration of the ways in which governmental interference into Aboriginal family life, first through the residential school system, and then through the child protection system, have impacted women who took part in this study as individuals and as members of broader communities.

Part 2 – A Broken System

The second section of this report addresses the concerns of parents at each successive stage of the child protection process. We begin this section by looking at the web of institutions engaged in the surveillance of poor mothers.

Mothers who have been through a child protection investigation or apprehension raise a number of concerns related to the lack of alternatives to apprehension and the failure of Ministry of Children and Family Development ("Ministry") staff to provide them with vital information related to the investigation and apprehension process. These concerns are addressed in detail in this section.



This section also considers problems related to foster placements and visits raised by mothers with children in care. Mothers' experiences also point to the barriers preventing the reunification of families after an apprehension. This section ends with a look at the emotional impact of apprehensions on mothers and provides a series of recommendations aimed at improving the functioning of the system for families.

Part 3 – The Decision Makers

The third section of this report deals with parents' experiences with the two major decision makers in child protection cases: Ministry social workers and the courts. For parents, social workers occupy a central role in their child protection cases; however, large caseloads, a contradictory role as support person and investigator, and high turnover often prevent social workers from doing their jobs effectively. Some parents also raised concerns about their social worker's racial or class biases, inability to understand the context of their lives and an overall lack of accountability on the part of Ministry staff.

Parents describe the court process as confusing and alienating, expressing frustration about long delays, insufficient time with lawyers, and a lack of help in navigating the system. This section concludes with a series of recommendations aimed at improving relationships between parents and the professionals involved with their cases, and ensuring timely, fair and transparent decision making.

Part 4 – Vulnerable Communities

The fourth section of this report explores the question of why particular demographic groups are so highly overrepresented in the child protection system and how best to address that inequity. This section begins with a look at how "risk management techniques" and the use of a standardized risk assessment tool for all child protection cases in the province have contributed to systemic discrimination against Aboriginal people, former youth in care, families living in poverty, and people with disabilities.

Based on this study, we take the position that many of the issues that are currently addressed through the child welfare system are better understood as social problems requiring innovative family and community-based solutions. In particular, we look at four issues: poverty among single-mother-headed households; domestic violence; mental health/cognitive disabilities, and substance use. We suggest that a new approach to evaluating risk combined with more accessible and better-funded programs and supports could help divert many families away

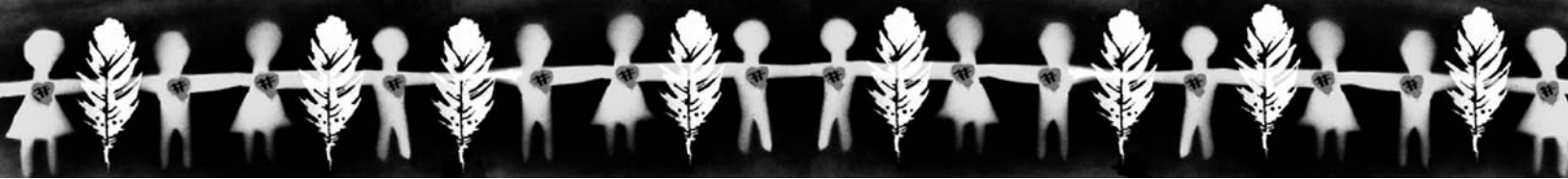
from the child protection system while ensuring that children are kept safe. We conclude this section with recommendations about how these vulnerable communities could be better served both inside and outside of the child protection system.

Part 5 – A Violation of Principles

The final section of the report looks at parents' experiences with the child protection system in relation to the provisions of the *CFCSA*. While the *CFCSA* is a reasonably progressive piece of legislation informed by an extensive community consultation process, this study concludes that the *CFCSA* has not lived up to its promise. In this final section of the report we look at the guiding principles and service delivery principles of the *CFCSA* in light of what parents have told us about their interactions with the child protection system. We discuss the extent to which the Ministry is working within these principles and steps that need to be taken in order to ensure a greater degree of compliance.

Research findings

- The Ministry for Children and Family Development is not living up to the guiding principles and service delivery principles laid out in the *CFCSA*.
- The effects of child welfare involvement are felt multi-generationally.
- Mothers living in poverty are subject to a high degree of scrutiny from all quarters, leading to stress, fear and distrust. This makes some mothers reluctant to reach out for help in times of need.
- While the apprehension of a child is meant to be a last resort, alternatives are not made available, and social workers do not have the time to explore alternatives where they may exist.
- Parents are chronically denied basic information related to their case.
- Children taken into care continue to be placed far from their natural family and community or in culturally inappropriate homes. Sibling groups continue to be separated, and some children in care are still being subjected to repeated moves.
- Parents are having a hard time securing visits with their children. Visits are difficult to arrange, often take place in inappropriate locations, and are frequently changed or cancelled.
- Little emphasis is placed on return planning once a child

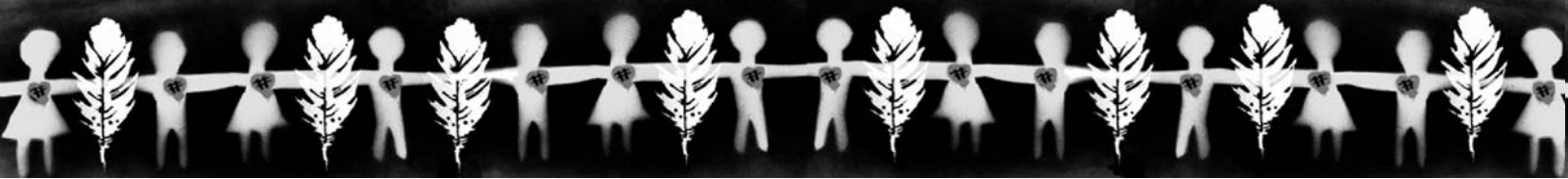


is taken into care, and parents are often unsure what is expected of them by Ministry staff. Social worker case-loads prevent them from working with families toward reunification.

- There are no meaningful mechanisms through which families can hold Ministry staff accountable for their actions.
- The court process is alienating for parents and plagued with inordinate delays.
- The standardized risk assessment tool used in child protection cases across the province is biased against former youth in care, Aboriginal people, families in poverty, and people with disabilities.
- Provincial income assistance rates, a lack of affordable

housing, costly public transit and the lack of a universal child care program all negatively impact the ability of poor women to care for their children.

- There are few supports available to assist people with mental health and cognitive disabilities to care safely for their children.
- Women who have experienced domestic violence and their children are poorly supported and at times re-victimized by the child protection system.
- There is a need for enhanced treatment options for mothers experiencing difficulties related to drug or alcohol use and better training for Ministry staff about the dynamics of addiction.



METHODOLOGY

Research design for this project began with a series of consultations with women living in the Downtown Eastside, members of the legal community, social workers and representatives from community organizations that work with families. The information from the consultations guided the development of the interview schedule for this project. Women from the community were recruited to review the interview schedule for appropriateness and accessibility.

The goal of the interview phase of the research was to thoroughly explore the issues facing families involved with the child protection system. After the interviews were completed we launched an affidavit campaign to recruit parents to tell their story in the form of a sworn statement. The goal of the affidavits was to isolate and target issues of particular concern to parents in order to clarify the nature of those concerns, to have parents elaborate on these issues, and to ensure that information was presented in an accurate manner that truly reflected what mothers wanted to say about their experiences.

The third aspect of the research involved interviews and focus groups with professionals working with families involved with the child protection system. These include social workers, community agency staff, advocates and lawyers. The goal of this phase of data collection was to fill in gaps in our knowledge and to answer questions raised in our discussion with parents. Secondary sources including government publications, academic research and documents produced by professional associations or community agencies were also used to this end.

Recruitment

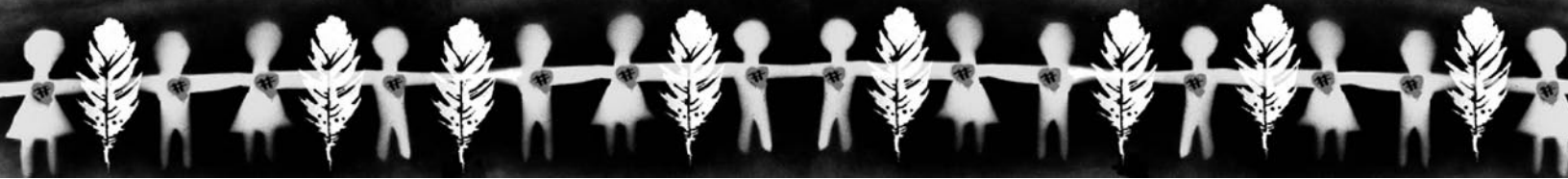
Interviewees were recruited for this study, mainly through not-for-profit women-serving organizations in and around the Downtown Eastside. This was a very effective recruitment method. However, it meant that women who are extremely socially isolated and are not accessing community services were not included in the sample. Thirty-two interviews took place between December 2006 and February 2007. Participants

were paid a \$20.00 honorarium for their time. Affiants were recruited in a similar manner, with information about the project going out to a number of community organizations and advocates. The information about the affidavit campaign was distributed more widely than it was for the interview phase of the research, with organizations outside of Vancouver being contacted. Appointments were generally set up individually, although one full day drop-in session was held at the Pivot Legal Society office. No honoraria were paid to affiants (although they were offered assistance with transportation and child care). This decision was made because the affidavits may be used as part of a formal complaint.

Data collection

Interviews

Due to the sensitive nature of the topic under investigation, Pivot Legal Society staff consulted with academic researchers with experience in this area as well as members of the legal community to develop an ethical protocol for the project. Primary concerns included ensuring that there was informed consent, protecting the confidentiality of participants, and providing a safe environment for participants. Parents were informed of their right to confidentiality and were given the option of signing the consent form using a pseudonym. Interviewees were informed of their right to decline responding to a question and to end the interview at any point without forfeiting their honorarium. They were also informed of our duty to report any child protection concerns under section 14



of the *Child, Family and Community Services Act (CFCSA)*. Researchers had an interview schedule to work from, but after basic demographic data was collected, interviews were kept as open-ended as possible.

Affidavits

The second phase of the research involved the collection of affidavits, written statements sworn to be true, from a second group of parents about their experiences with the child protection system. Data from 12 affidavits was included in this report. Drafters began each session by reviewing the guiding principles and service delivery principles set out in the *CFCSA* with parents. Parents were then asked to share their stories in full. Key issues were identified in relation to their experience with the child protection system. Parents and the drafter worked collaboratively to draft an affidavit. This often took many hours and more than one appointment. Once the parent was satisfied that the content of the affidavit accurately reflected her experience, she was asked to swear to the truth of the contents in front of a lawyer. In order to protect the confidentiality of parents, a witness was then asked to redact (black out) any identifying information and swear a second affidavit to that effect.

Interviews and focus groups with professionals

While the underlying goal of this research is to look at the child protection system from the perspective of parents, a decision was made to include some professionals in the study. Collectively, these professionals have been involved with hundreds of child protection cases in varying capacities. We felt that their combined experience, along with their insider knowledge of how specific aspects the system function (often those aspects the least understood by parents) would be a valuable contribution to this study. Importantly, the themes coming out of these interviews and focus groups closely mirrored those coming out of discussions with parents. Interviews were conducted with five social workers, one child protection mediator and one drug and alcohol counsellor.

Two focus groups were also conducted as part of this project. The first focus group was attended by front-line service providers working with Ministry-involved parents. Ten women representing eight organizations attended the focus group. The second focus group was conducted with four child protection lawyers.

As researchers, we were also able to benefit from the knowledge and stories shared at legal workshops about the

child protection system organized by Pivot Legal Society, at informal meetings with professionals, community representatives and provincial politicians, as well as from direct experience as legal counsel for parents in their child protection cases.

Data analysis

Interviews

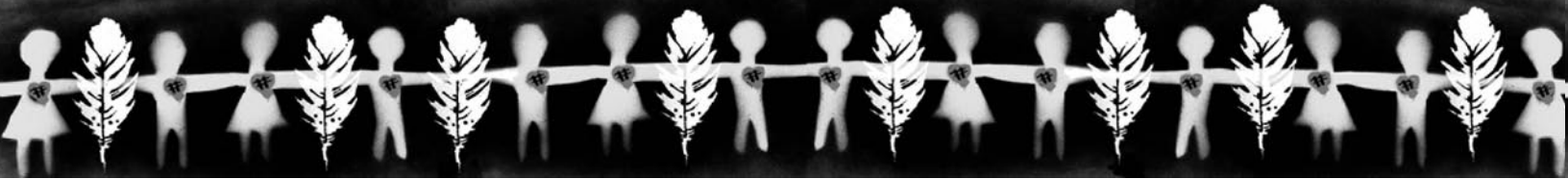
Interviews were first transcribed and coded for demographic trends and commonalities in the life histories of the parents. At that time they were also coded for recurrent themes, issues of concern and suggestions about how cases could have been better handled. A second round of coding was used to compare parents' experiences with the provisions of the *CFCSA*, particularly the guiding principles and the service delivery principles laid out in sections 2 and 3 of the *CFCSA*. The purpose behind this round of coding was to gauge the extent to which those principles are adhered to in practice. A third round of coding was used to identify institutions, government policies and programs outside of the child protection system that had a major impact, positive or negative, on women's lives and their child protection cases. The research team felt that it was important to have participants review the central themes and issues that we identified from the interviews before moving ahead with the project. Notes were made of follow-up conversations with parents and included as data in the report.

Affidavits

Each individual affidavit was organized according to the issues identified as most important by parents while it was being drafted. Afterward, researchers looked for themes that came up frequently in affidavits as well as issues that mirrored those raised in the interviews. The content of affidavits was also analyzed in relation to the guiding principles and service delivery principles of the *CFCSA*.

Interviews and focus groups with professionals

The types of questions that were asked in interviews and focus groups with professionals working with Ministry-involved families were much more targeted than those posed to parents. In some cases we were looking for very specific information such as wait times for a particular service. However, these interviews and transcripts were also analyzed to assess whether or not what professionals had to say could help explain some of the negative or confusing experiences recounted by parents.



Profile of participants

Interviews

Thirty-one of the participants were female and one was male.¹⁶ Of the 32 interview participants, 23 identified as Aboriginal. Thirty-one of the participants were born in Canada with one having emigrated from Eastern Europe. The participants ranged in age from 20 to 63 years with an average age of 31.1 years. While the parents we spoke to were all over 19, many had given birth to their first child before their 19th birthday.

Nineteen of the parents identified their marital status as single, with seven identifying as separated or divorced. Four participants were married or living common-law with partners of the opposite sex at the time of the interview, and two participants were living in same-sex relationships. Interview participants had between one and nine children, with an average of 3.3 children excluding step- and grandchildren.

All of the parents we spoke to were facing some level of economic hardship at the time of the interview and for most this had been a reoccurring theme throughout their lives. Only five of the 32 participants identified as having some paid employment. Of those, three were working casual or part-time and one was working full-time at a low-wage service sector job. A number of women were living with disabilities, including mental health issues, learning disabilities and/or fetal alcohol syndrome, HIV/AIDS and Hepatitis C. Many of the parents also had children with special needs.

Affiants

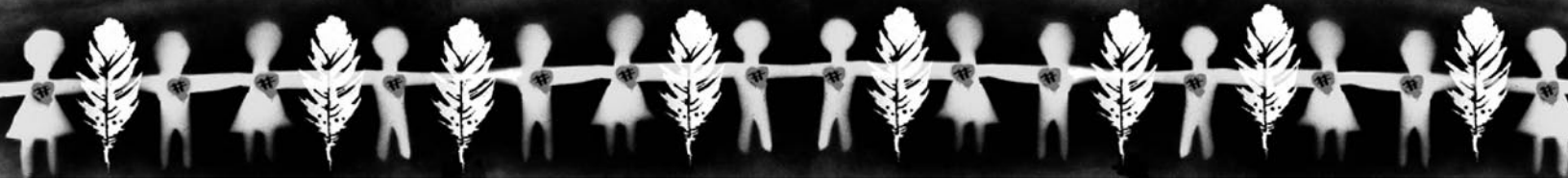
Less background information is available on the affiants who took part in this project because only information that they felt was relevant to their case was included in the affidavit and potentially identifying information was redacted. However, seven of 12 affiants identified as Aboriginal. Six affiants disclosed that they had spent time in foster care as children, with a seventh having spent many years in residential school. Affiants had between one and six children.

Limitations

Work for this project began in October 2006, only 14 months before the report went to print. This short time period was a major limitation for us as researchers. Time limitations seriously impacted our ability to collect a large number of affidavits for inclusion in this report. As we completed each successive stage of the research project we also found that we had further questions that we would have liked to explore in more detail. In particular, we would have liked to have conducted focus groups with specific subgroups of women (women with mental health concerns, youth who gave birth while in care, women who have experienced violence, grandparents) in order to better understand their unique concerns and visions for reform.

A major weakness of this research is the lack of attention paid to the experiences of immigrant and refugee communities involved with the child protection system. Currently statistics from the Ministry are broken down into the categories of Aboriginal and non-Aboriginal children; however, consultations with the Latin American community and anecdotal evidence suggests that this binary obscures the reality that a disproportionate number of “non-Aboriginal” admissions into care involve the children of recent immigrants.

The stories and insights of parents and the various professionals who took part in this study provided a great deal of valuable information about how the child protection system functions. However, there is other information that would have been very useful if it had been available to us. For example, we did not have access to child protection files as part of this project. Those files would have helped us better understand how the decision to apprehend is in fact made, what types of evidence social workers record, how various forms are completed and how often social workers are meeting with parents. We also would have liked to have access to aggregate information about court delays, including the average length of time it takes to go from the first appearance after an apprehension to a full trial, the reasons for delay, the percentage of children returned at each successive stage and the number of cases that proceed to a full trial.



CHILD PROTECTION LEGISLATION IN B.C.

While there have been child protection laws on the books in British Columbia since 1901,¹⁷ the province's modern child welfare legislation dates to the early 1980s.¹⁸ Since then, the legislation and the government's child protection system have evolved to address the changing relationship between Aboriginal people and the government, low public confidence in the system and financial imperatives.

Since the early 1980s British Columbians have seen public consultations on child welfare, the introduction of new child welfare legislation and two judicial inquiries, both of which recommended widespread changes to the system. In spite of all this, the child protection system remains in a state of flux, without the necessary resources or political will required to implement progressive legislative principles.

Family and Child Services Act

The *Family and Child Services Act* ("FCSA"), enacted by the Social Credit government in 1981, was the first new piece of child protection legislation since 1939.¹⁹ The new legislation was in part a response to the Royal Commission on Family and Children's Law (1974–1975) that had recommended an overhaul of laws affecting children and families. A public consultation on child welfare reform also precipitated the new legislation. The FCSA expanded the powers of social workers to make short-term special care agreements and remove a child in "immediate danger." The FCSA also provided for joint planning between Ministry social workers and bands in cases involving Status Indian children. Despite the recommendations of the Royal Commission reports and the public consultation, the legislation failed to lay out the rights of the child, did not define when a child could be found in need of protection and did not make preventative services mandatory.²⁰

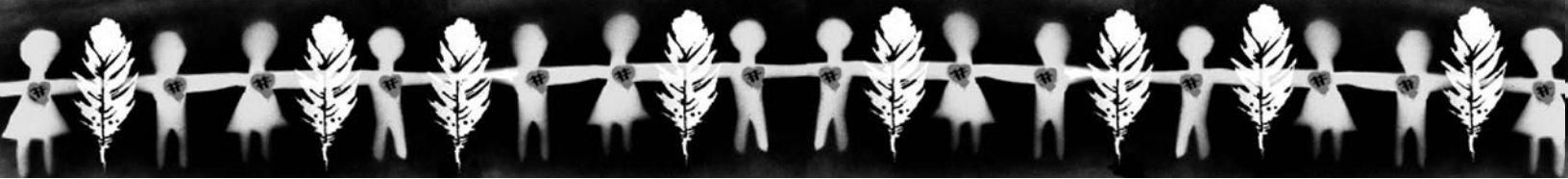
Not only did the new legislation fail to take into account many of the recommendations coming out of the Royal Commission or the community consultation process, the ministries responsible for delivering child protective services underwent successive rounds of budget cuts. In 1983, the

provincial government introduced a "restraint budget," resulting in the elimination of 600 workers from the Ministry of Human Resources, the ministry responsible for child welfare at that time. Child protection workers and family support workers were heavily impacted. Ministry staff were reduced to filling a crisis intervention role, while other services were increasingly contracted out to private agencies.²¹

Problems were exacerbated in 1988 when the Ministry of Social Services (renamed in 1986) was reorganized. Previously, a single office offered access to all Ministry programs. After the reorganization income assistance, child and family services, and services for people with mental disabilities were all housed in separate offices. While the reorganization resulted in expanded community-based services for people with mental disabilities and more financial assistance workers to deal with growing demand, there was a loss of social workers in many Children's Services offices. This was especially problematic in the Lower Mainland with its burgeoning population.²²

Consulting the community . . . again

In 1991, an NDP government was elected in British Columbia. One of the government's priorities was to address ongoing criticism that child welfare practices failed to recognize the integrity of families, particularly among First Nations communities. The Minister of Social Services launched a community consultation process that culminated in two reports: *Making Changes: A Place to Start* ("Making Changes"), documenting the views of non-Aboriginal people concerned with child welfare reform; and *Liberating Our Children, Liberating Our Nations* ("Liberating Our Children"), documenting the concerns and



recommendations of Aboriginal communities across British Columbia with respect to the child protection system.

Community members that presented to the *Making Changes* panel reported a number of major concerns: the deepening of family poverty attributable to low welfare rates; a minimum wage that did not keep pace with inflation; high housing costs; and a lack of programs to meet the needs of people with disabilities and refugees. Child welfare clients also expressed concern about the flow of information within the child protection system on two fronts. First, they identified the lack of information for families as a problem, including information about the child protection process, available support services, and access to personal information contained in their files. Second, there were concerns about the way information was gathered about them and subsequently dispersed.

The *Making Changes* panel found that there were not enough relevant and accessible support services for families. Many services were reserved for cases where a child was deemed “at risk” and parents’ early calls for help were routinely ignored until a crisis point was reached. There was also substantial frustration expressed by the community that there were more resources for children in care than there were for families caring for children at home. Families also often feared asking for services delivered through the child protection system. Participants in the community panel saw the need for more sensitive approaches to cases involving family violence in order to ensure that children and the non-abusing parent were not re-victimized. They also felt strongly that if children are taken into care there needed to be continuity, stability and an acknowledgement of the problems found in many foster and group homes.

The *Liberating Our Children* report raised a number of additional concerns related specifically to Aboriginal communities. These concerns included: a failure to understand the nature of Aboriginal family structures and cultural norms within those communities; discrimination at all levels of the child protection system; the placement of children in non-Aboriginal homes; and inequitable funding levels for child welfare work on reserve. Overall, the approach that was favoured in *Liberating our Children* was one where First Nations regained control over their children and the authors of the report took the position that any reforms to existing province-wide legislation, short of self-government, should be considered interim measures.

Upon receiving the two reports, then–Minister of Social Services, Joan Smallwood, explained that the new legislation under discussion would embody a “fundamental shift in values” in the field of child protection. She promised:

*A different style of service provision. The greatest proportion of time, energy and financial resources of the child welfare system must be dedicated to preserving families. The service will be geared to enhance the welfare of children in their own homes or to promptly reunify families when temporary placement is required.*²³

The Child, Family and Community Services Act

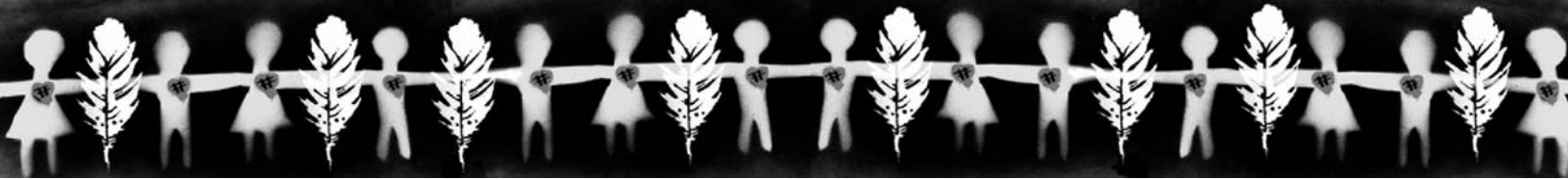
The impacts of both the *Making Changes* and *Liberating our Children* reports can be seen in the tone and wording of British Columbia’s current child protection legislation, the *Child, Family and Community Services Act* (“CFCSA”). This legislation attempts to address a number of key issues raised by community members:

- use of less disruptive measures as an alternative to apprehension;
- use of alternative dispute-resolution mechanisms;
- increase in community involvement in the child protection process;
- increased role for extended families and Aboriginal communities; and
- acknowledgement of the importance of culturally appropriate services and preserving the cultural heritage of children in care.

These ideals were enshrined in a set of guiding and service delivery principles laid out in sections 2 and 3 of the *CFCSA*. The guiding principles are meant to guide the interpretation and administration of the *Act* and read as follows:

This Act must be interpreted and administered so that the safety and well-being of children are the paramount considerations and in accordance with the following principles:

- (a) children are entitled to be protected from abuse, neglect and harm or threat of harm;*
- (b) a family is the preferred environment for the care and upbringing of children and the responsibility for the protection of children rests primarily with the parents;*
- (c) if, with available support services, a family can provide a safe and nurturing environment for a child, support services should be provided;*
- (d) the child’s views should be taken into account when decisions relating to a child are made;*
- (e) kinship ties and a child’s attachment to the extended family should be preserved if possible;*
- (f) the cultural identity of aboriginal children should be preserved;*



(g) Decisions relating to children should be made and implemented in a timely manner.

The Act's service delivery principles are meant to guide the provision of services to families involved with the child welfare system and read as follows:

3) *The following principles apply to the provision of services under this Act:*

(a) families and children should be informed of the services available to them and encouraged to participate in decisions that affect them;

(b) aboriginal people should be involved in the planning and delivery of services to aboriginal families and their children;

(c) services should be planned and provided in ways that are sensitive to the needs and the cultural, racial and religious heritage of those receiving the services;

(d) services should be integrated, wherever possible and appropriate, with services provided by government ministries, community agencies and Community Living British Columbia established under the Community Living Authority Act;

(e) the community should be involved, wherever possible and appropriate, in the planning and delivery of services, including preventive and support services to families and children.

The Gove Report

The *CFCSA* was passed by the B.C. legislature in June 1994, although the legislation did not come into force until January 1996. The reason for this delay was to allow time for the Ministry to develop policies and procedures that were consistent with the new legislation. A cautious optimism was felt by many participants in the community consultation process as they waited to see whether or not the new legislation would result in any real change for families involved with the child protection system. However, in the 18 months between the passing of the *CFCSA* and its proclamation into law, the release of a report by Justice Thomas Gove was instrumental in pushing the child protection system firmly away from a "family supports" model and toward "child-centred" child protection practices.

On July 9, 1992, the same year that *Making Changes* and *Liberating our Children* were released, a five-year-old Aboriginal boy named Matthew Vaudreuil died of asphyxia while in his

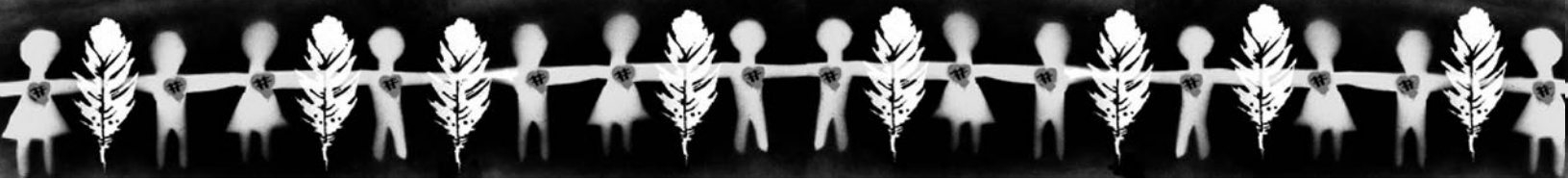
mother's care. Matthew's death and the description of his beaten and emaciated body outraged people across the province, particularly because he and his mother had been involved with the child protection system their whole lives. Upon his death, it became clear that Matthew's case had been mishandled. He had been involved with at least 21 social workers; there had been over 60 reports about his safety made to the Ministry; and he had been seen by 24 different physicians. In order to restore public confidence in the child protection system, Justice Gove was appointed to investigate the circumstances surrounding Matthew's death and conduct an inquiry into whether or not Matthew's case was an example of more systemic problems with the province's child protection system.

In the resulting *Report of the Gove Inquiry into Child Protection in British Columbia*, Gove raised a number of concerns that echoed what we heard over the course of this research: the large number of professionals involved in the lives of families, a lack of staff hours, poor staff training and uncoordinated services. However, the Gove Report also commented that:

The family-centred approach to service delivery is particularly problematic in British Columbia, where many front-line child protection social workers lack the qualifications, training and skills to identify children who are at significant risk in the care of their parents.²⁴

While members of both the Aboriginal and non-Aboriginal community that participated in the community consultation process wanted to see greater flexibility in child protection work, the recommendations coming out of the Gove inquiry were focused on increased procedural tasks and administrative protocols, more standardized training for child protection workers, and closer supervision of their work. The Gove Report had a substantial impact on the direction the Ministry would take as the *CFCSA* came into force. The new legislation and related regulation and practice standards were implemented at a time when Ministry staff felt attacked by the publicity surrounding the inquiry and were afraid to leave children in homes where they could potentially be harmed.²⁵

The move away from a family supports model resulted in a dramatic increase in the number of children in care in the province. Between 1979 and 1993, prior to the Gove Report, British Columbia was experiencing a decline in the number of children in care. During those years, the number of children in care decreased from 9,000 to approximately 6,000, reflecting the changing vision of child protection work. Following the



Gove Report, this trend was reversed, and the province saw a steady increase in the number of children in care from 6,000 in 1994 to almost 10,000 in 1999.²⁶

Regionalization and Aboriginal delegation

The Ministry of Children and Family Development (“Ministry”) is responsible for overseeing the quality and delivery of child welfare services across British Columbia. However, there has been a move toward increased regionalization of service delivery and delegation of authority to administer the *CFCSA* to Aboriginal agencies. The *CFCSA* delegates the authority to administer the legislation to five directors, one in each region. Regional directors then delegate their authority under the *CFCSA* to team leaders and child protection social workers. The provincial government refers to their regionalization and delegation approach as the “transformation process.” The current service delivery system consists of approximately 200 offices in five regions.

Delegation agreements allow Aboriginal agencies to be granted the authority to execute some or all of the functions normally reserved for staff at Ministry offices. Currently, 24 Aboriginal agencies provide child protection and/or family support services to Aboriginal people. They do so based upon delegation agreements negotiated with the federal or provincial government, depending on whether they provide services on or off reserve or in some combination. The degree to which Aboriginal agencies can carry out child protection work varies depending on the nature of their delegation agreement with the Ministry. The agreement with the Spallumcheen Band is an example of a self-governance model, where the band asserts sole jurisdiction over child welfare services on their reserve land through a band by-law enacted under the authority of the federal *Indian Act*. Aboriginal agencies delegated to provide services through the *CFCSA*, in contrast, have the authority to operate their agencies only if they comply with provincial legislation, regulations and standards.

The delegation process happens in slow steps; the rationale being that agencies will assume more responsibility as they are prepared to do so. Among the 24 delegated agencies operating as of June 2007, two are in start-up phase, meaning that they have yet to acquire any form of delegated status under the *CFCSA*, three provide voluntary services and approve foster homes, 11, including Vancouver Aboriginal Family Services Society, which serves families living in the Vancouver Coastal Region, have delegated authority to provide guardianship to children in continuing care, while the remaining eight have full child protec-

tion delegation. Child welfare workers in fully delegated agencies have the same authority as Ministry staff, including the ability to apprehend children.²⁷ Of the 24 agencies, only three receive funding from the provincial government, with the other 21 receiving funding from the federal government.²⁸

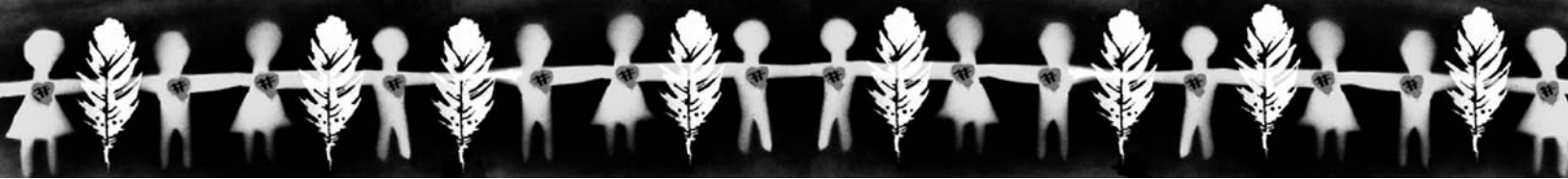
Barriers to implementation

Justice Gove recommended the development of Children’s Centres, which would bring government and community services for children and youth together under a single roof. He also recommended that all programs related to children, youth and families be delivered through a single ministry.²⁹ While the Children’s Centres proposed by Justice Gove have not materialized, the government did follow his recommendation to group all programs for children, youth and families under one ministry, with the creation of the Ministry for Children and Families in 1996. However, there have been ongoing complaints about the lack of resources to support the transition. The resource problem intensified in 2001 when a new Liberal government was elected in British Columbia and asked the Ministry for Children and Family Development (renamed from the Ministry for Children and Families) to slash its budget, resulting in an 11 percent budget reduction across the newly formed ministry. Services to support families in caring for their children were either eliminated or strictly targeted to families in crisis.³⁰

Justice Gove and the *Making Changes* report also recommended that the responsibility for the provision of day-to-day child welfare services be devolved to communities. While many welcomed this devolution philosophy, the difficulty lay in putting it into practice as women’s centres and other services working with the communities most affected by the child welfare system were undergoing equally deep government cuts or being closed.³¹ The effects of government cuts to social services were also being felt by individual families, particularly single-parent families, intensifying the needs of families at the same time that other supports were being eroded.

The Hughes Report

As of June 2007 there were 4,770 B.C. children living in the home of a relative, either because their parents have chosen to give up custody or because the child would have been placed in care unless a suitable relative or family friend assumed custody.³² One of the goals behind the *CFCSA* was to increase the use of these types of kinship options when considering an apprehension



in order to enhance stability for children and ensure that fewer Aboriginal children were removed from their family and community. Children placed in kinship care agreements are not counted as “children in care,” and their family caregivers do not receive comparable support to foster care providers. These agreements are therefore also a major cost-saving measure.

Controversy erupted over this program after the death of a Nuu Chah Nulth girl named Sherry Charlie. Nineteen-month-old Sherry was murdered while in the care of an uncle under one of these agreements.³³ After calls from the opposition NDP party for an inquiry into the child protection system following Sherry’s death, the Liberal government appointed former conflict of interest commissioner Ted Hughes to chair an independent panel charged with examining the system.

When Hughes was appointed in November of 2005, his primary purpose was to examine and recommend ways to improve the procedures for child death reviews, child and youth advocacy, and to monitor the government’s performance in protection services and programs for children and youth.³⁴ The Hughes report was delivered on April 7, 2006 and recommended several changes to the child protection system, including:

- that an external evaluation of all programs, starting with kith and kin agreements, be undertaken;
- that program evaluation and consultation with the Aboriginal community become routine;
- a campaign to recruit adoptive and foster parents be undertaken and funded;
- that the government collaborate with Aboriginal people by conducting a needs assessment with urban and on-reserve Aboriginal communities while working toward the fulfillment of the Kelowna Accord;³⁵

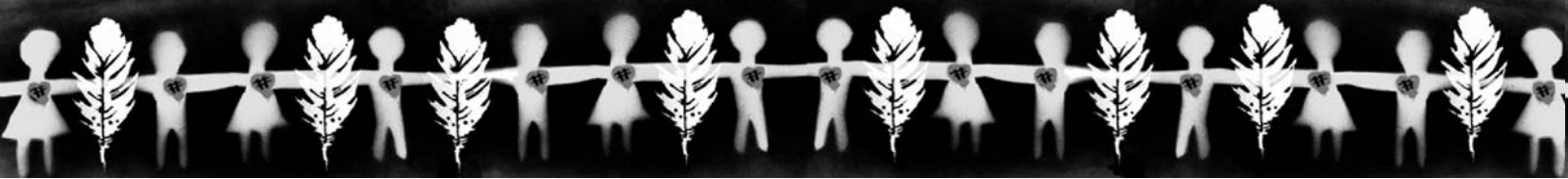
- that the provincial government develop an Aboriginal child welfare system in collaboration with the Aboriginal people following widespread community consultation;
- that Aboriginal agencies be provided with modern technology, training opportunities and support for emergencies that the Ministry offers its other regional agencies; and
- that an improved complaint resolution process with a specific process to resolve complaints by Aboriginal children, youth and families be put in place.

Hughes indicated that the implementation of his recommendations would require a dedicated transition team, detailed action plans, and staff to be responsible for the fulfillment of their new roles.³⁶ It would also require increases in budget, staffing and resources.³⁷

A central recommendation coming out of Hughes’s report was that an independent Representative of Child and Youth be established to oversee child welfare services in British Columbia. Hughes suggested that the Representative’s role would be: to advocate for children and youth; to support individual children and their families; to monitor and report on government services to children and youth; and on the Ministry’s response to critical injuries and child deaths.

The B.C. government has acted on Hughes’s recommendation and, in November 2006, appointed a Representative for Children and Youth, Mary Ellen Turpel-Lafond, who will act as an independent officer of the legislature. There have also been some funding increases to the Ministry, although with inflation, it is uncertain whether these increases will even restore the funding that was cut in 2002.³⁸ Some resources have been targeted to better train and compensate foster care providers.³⁹

Legislation, inquiries, practice standards and budgets leave a paper trail documenting how the child welfare system has evolved over time in this province. Unfortunately, it appears that in spite all of these changes, the experiences of parents whose children have been apprehended or are at risk for removal have not evolved very much. Legislative ideals on their own cannot alter these experiences; dedicated resources and political will are essential to ensuring both the well-being of children and the integrity of families.



MULTI-GENERATIONAL EFFECTS OF A BROKEN SYSTEM

Almost 65 percent of the parents that took part in this study as interviewees or affiants had spent some part of their childhood in government care. In the case of Aboriginal mothers, stories of government involvement in family life often go back generations. The legacy of removing children from their families and communities, first through the residential schools, and then through the child protection system, continues to impact the lives of these mothers, their children and their grandchildren:

When I was a child, I was in foster care and a home for girls. My husband has told me that he was in residential school as a young child and as a result has lost his language and his identity as First Nations. I have had four children. My oldest was adopted out, two stayed with me, and I lost one who died in a medical services foster home. I feel like the story is repeating itself now that my grandchildren are in foster care too, and also have experiences like the ones I had as a child and like my children had as well.

Affidavit #6

Women repeatedly spoke about their time in care, and even their own parents' or other older relatives' experiences in the residential school system as important factors in their involvement with the child protection system. Any meaningful reform to the child welfare system must address the government's poor performance as "stand-in parent" and the reality that the experiences of children being raised in care today will have impacts for their own children.

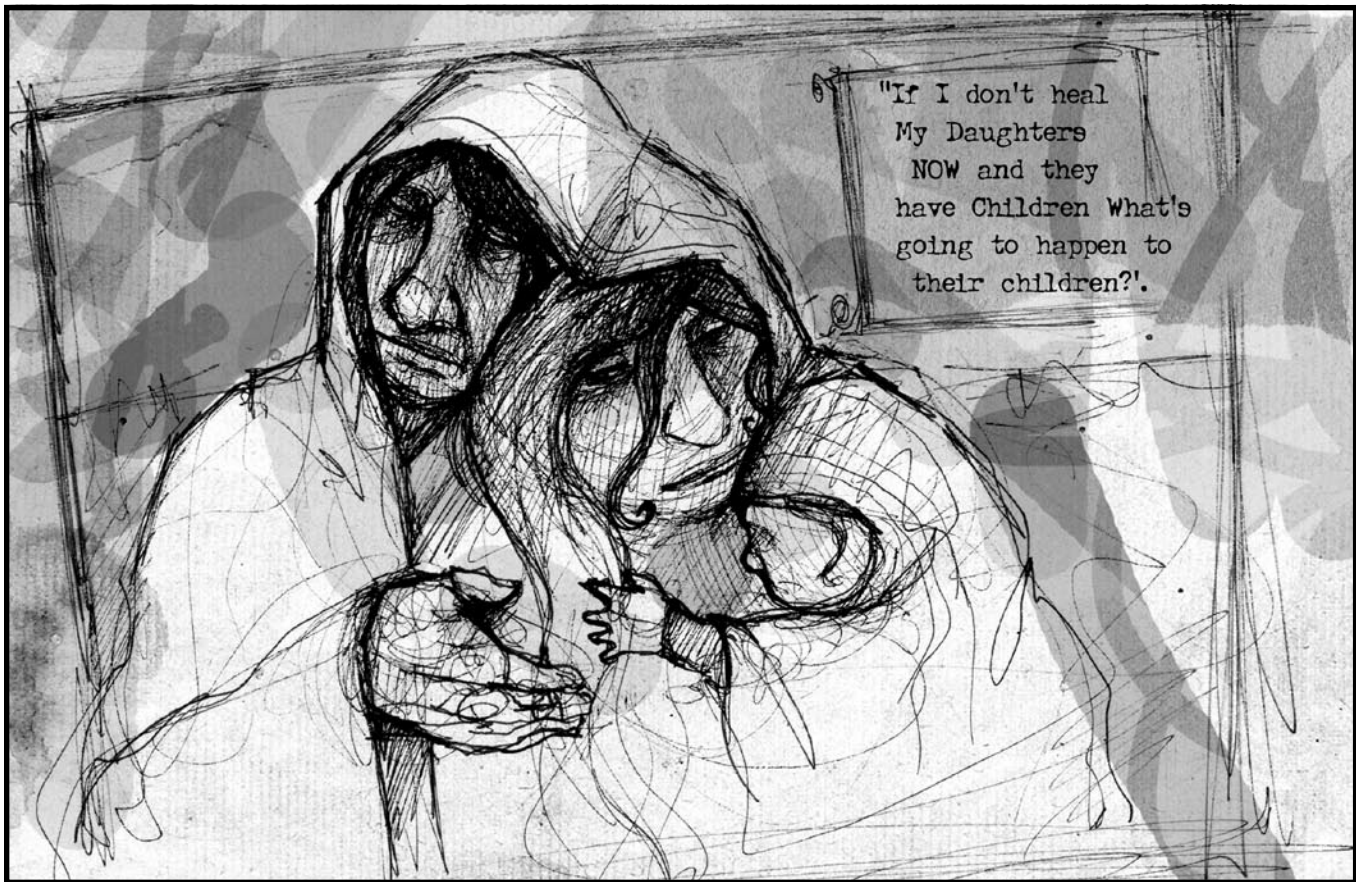
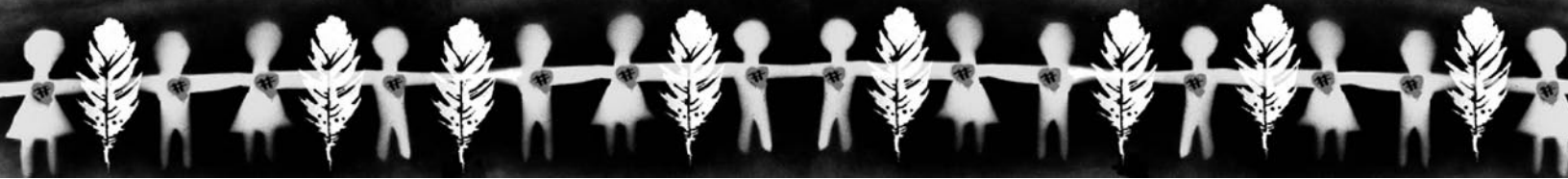
A shameful legacy: Aboriginal child welfare in B.C.

In 1992, when then–Minister of Social Services, Joan Smallwood, began the process of reforming child protection legislation in B.C., a community panel was struck to gather feedback on what the new legislation should look like. The two Aboriginal members of the panel communicated the need for a distinct Aboriginal process because of the unique relationship

between First Nations and the child protection system. The outcome of the Aboriginal consultation process was a report entitled *Liberating our Children, Liberating our Nations*. The report clearly outlines the extent to which practices justified in the name of child protection have negatively impacted First Nations communities and the difficulty of creating a piece of legislation that will address those past harms in the current context:

We have been asked to review your child protection legislation and recommend changes as it affects our people. In doing so, we are put in a contradictory position, since we do not believe that your laws apply to our people. We believe that the Royal Proclamation of 1763 provides a constitutional basis for your laws and recognizes our right to live under our laws. We believe that that right is recognized in your Canada Act 1982 as one of the existing rights of Aboriginal people. Unfortunately, your governments and your courts have not enforced those laws. They have enforced the extension of your law onto our land and applied them to our people with devastating effects. This has been particularly true of your child protection laws . . . Your child protection laws have devastated our cultures and our family life. This must come to an end.⁴⁰

British Columbia's earliest child protection laws did not apply to First Nations families. Instead, Aboriginal people were subject to the provisions of the federal *Indian Act*.⁴¹ The *Indian Act* authorized government officials to systematically remove Aboriginal



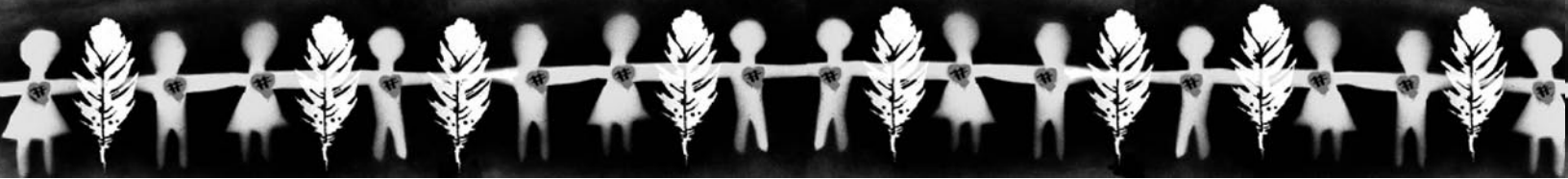
children from their families and place them in residential schools across the province. These schools were based upon a philosophy of assimilation and aimed to extinguish Aboriginal culture, governance structures and claims on land and resources. Even though residential schools did not succeed entirely in this mission, the impacts on Aboriginal families were devastating:

The government's goal in creating [residential schools] was to separate our people from our culture, and to instill European cultural values in us . . . For many victims of the residential school system, not only were cultural values lost, but the experience of normal family relationships and the natural process of parenting were lost as well. In their place was substituted an example of child care characterized by authoritarianism, often to the point of physical abuse, a lack of compassion, and, in many cases, sexual abuse.⁴²

Residential schools did more than harm individual children and disrupt the bond in particular family units – they eroded an entire system of child rearing organized at the community

level and undermined the ability of First Nations to transmit their culture and values to future generations.

The residential school system was the main tool through which the government intervened in Aboriginal family life in the first half of the 20th century, as provincial laws did not apply to First Nations at that time. That changed in 1951 when the *Indian Act* was amended to read that *in the absence of federal law, provincial law of a general application will apply to Indians*.⁴³ This was interpreted to mean that provincial child protection law applied to First Nations people in British Columbia. This period marked the beginning of a new approach to “protecting” Aboriginal children. The decline of the residential school system ushered in an era known in the Aboriginal community as the “60s scoop.”⁴⁴ Rather than removing children from communities as a whole, children were removed one family at a time. Only 29 children of Aboriginal ancestry were in the care of the Province of British Columbia in 1951 but by 1964, 1,466 Aboriginal children were in care.⁴⁵ In that that period, Status Indian children went from making up less than one percent of the children in care in the province to over 34 percent.



The view at the time was that the conditions of poverty and deprivation faced by many Aboriginal people, including a lack of running water, made the forcible removal of these children integral to ensuring their “best interest.” Much of the material deprivation was the direct result of laws limiting Aboriginal people to a grade eight education, preventing Aboriginal people from making claims to individual parcels of land, allowing the routine diversion of water from reserve lands and disqualifying Aboriginal

people from commercial fishing and from obtaining mineral or forest leases. However, this was not given any weight in “child protection” decisions.⁴⁶ The experiences of the mothers and grandmothers who took part in this study must be understood within the context of generations of children forcibly separated from their families and communities and forced to endure neglect, abuse and the loss of attachments and culture.

Laura's Story

Laura⁴⁷ is a 28-year-old Aboriginal mother of two from Northern B.C. who was interviewed as part of this study. She has two daughters aged ten and eight. Her older daughter was adopted by a family member, and her younger daughter was apprehended at six months old. Laura was apprehended and taken into care as an adolescent. She explains how she felt:

I felt lost, I felt like I didn't belong because I missed my family. [I came from] a big family with five sisters and one brother and I missed my dad . . . I felt like I wasn't even wanted by my own mother. I felt so sad, the way I am today, right now.

Interview #6

She recognizes that her mother was abusive toward her, but at home she had a number of family members to draw support from and felt a strong sense of belonging. She explained how things changed for her in care:

In foster care, that's where I got introduced to alcohol. That's when I started drinking . . . I got myself in trouble, got a criminal record.

At that point Laura's aunt in Vancouver agreed to take her in. She felt that her aunt took good care of her and really cared about her. She got pregnant the same year she moved in with her aunt, who adopted the baby because Laura was still underage. Once she reached legal age, Laura moved out on her own, then back to her community, where she gave birth to a second daughter in 1999.

She was born right in the community, in the clinic and she was only like six months old when they took her from me . . . They just came in the plane and then they just took off. I was sleeping

with her in my bed and the cops were banging on the door. [They said] we're here to apprehend your daughter because someone phoned the authorities or whatever. That was the worst day of my life. I didn't eat for like six days, I just stayed in my room because I was so depressed when they took her.

There was no investigation or attempt to find alternatives before the baby was apprehended, the Ministry had never even visited her previously:

They just took her, their plane was still docked. I was staying at my sister's place and then they just took her, just like that. My mom offered to take her because I called my mom right away and they said there is no choice or anything.

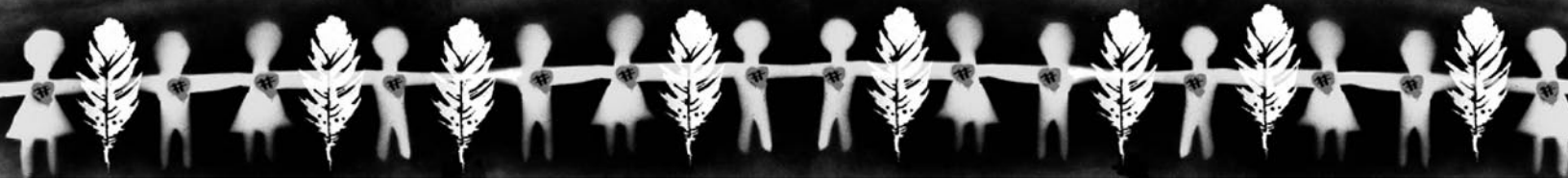
Laura was not offered any support services to help her get her daughter back.

She has since left her community and currently she is homeless and living in the Downtown Eastside:

I am currently looking for a job. I don't stay anywhere because I had a fight with my boyfriend, he was trying to beat me up. I have moved into the Women's Centre, I have lived there for like the past four days. I don't have an income source, welfare is giving me a hard time, they want like, a record of employment. They said I have to wait like three years or something.

Her daughter was eventually placed with the aunt who has adopted her older child, but has since been moved at least twice:

My aunty had her for like a year and a half. Then she was with a lady in [small First Nations community] and again, she had her for like a year. I don't know, but she said she was abused there.



Impacts of growing up in the foster care system

For some mothers, placement in foster homes was the beginning of a life characterized by trauma, rejection, sexual and physical violence, self-blame and self-destructive behaviour:

I was sexually abused in the foster home and I reported it to the social worker. The social worker didn't do nothing about it. The foster parents told me that my mom would call me a liar, so I never mentioned it to my mother. The social worker knew about it.

Interview #4

The first [group home] was filled with maggots and worms, that sort of stuff. The parents kept the children locked in a closet as part of their training, and I endured it for six months. After that they put me in a home for children where the parents gave us an ultimatum, if we wanted a roof over our head we had to be their drug mule prostitute.

Interview #2

For some women, involvement with the child welfare system is also where a lifetime of criminalization began:

I was a child who suffered sexual abuse and physical abuse living at home, so I acted out a lot and ran away a lot . . . this was in Alberta where it is so-called "illegal" to run away from home, so I was actually put in a locked facility for a year.

Interview #1

Mothers who had been in care themselves reported feeling unwanted, and as though they no longer had control over their lives. These types of feelings can have serious implications as girls grow up:

You lose a lot of sleep when you have high risk females because you're constantly worried about abuse and assaults. Sometimes their thoughts about sexual assault is very different from me and you . . . you know [a girl will say] "I told him to stop and he kept doing it anyways so I just let him, but he didn't hit me, so that's not rape." I guess growing up in care, you know, you don't really have any sense of control or ownership over anything in your life.

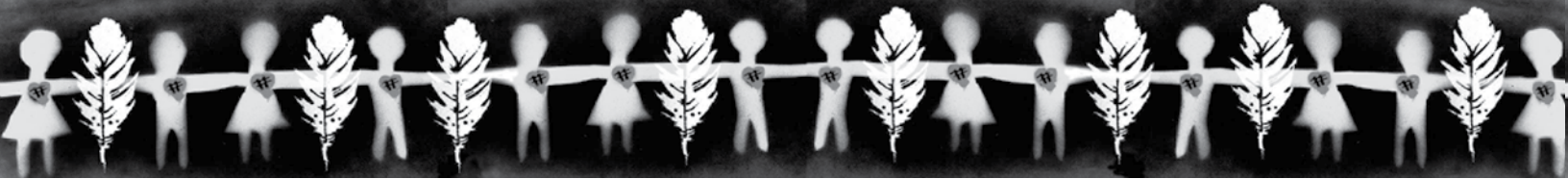
Interview#3 with social worker

Mothers we spoke to were keenly aware of how the inter-generational cycle of apprehensions had been perpetuated in their families and communities:

The fact is that Aboriginal people have all been very seriously traumatized. That means aunties, uncles, cousins, it doesn't matter they've all been traumatized because of colonization and genocide. Our people lost that parenting skill. My mother doesn't have the parenting skills to teach us because her mother went to residential school and it was beaten out of her, so it wasn't taught to my mom, so it wasn't taught to me . . . If I don't heal my daughters now and they have children, what's going to happen to their children? They're going to be in the same fucking place I am. Sorry, but it's true.

Interview #14

In 2006, the number of Aboriginal children in care surpassed the number of non-Aboriginal children for the first time. In spite of growing awareness of the systemic impacts of the residential school system and foster care system on Aboriginal families and other former youth in care, child protection cases continue to be handled on an individual basis that ignores both the systemic nature of the problem and that outcomes for kids coming out of care continue to be devastating. While the Ministry has made some positive moves toward recognizing the importance of preserving the cultural heritage and kinship network of Aboriginal children and empowering Aboriginal communities to take over responsibility for the protection of their children, most of the Aboriginal parents who took part in this study felt as though they were not seeing the results.



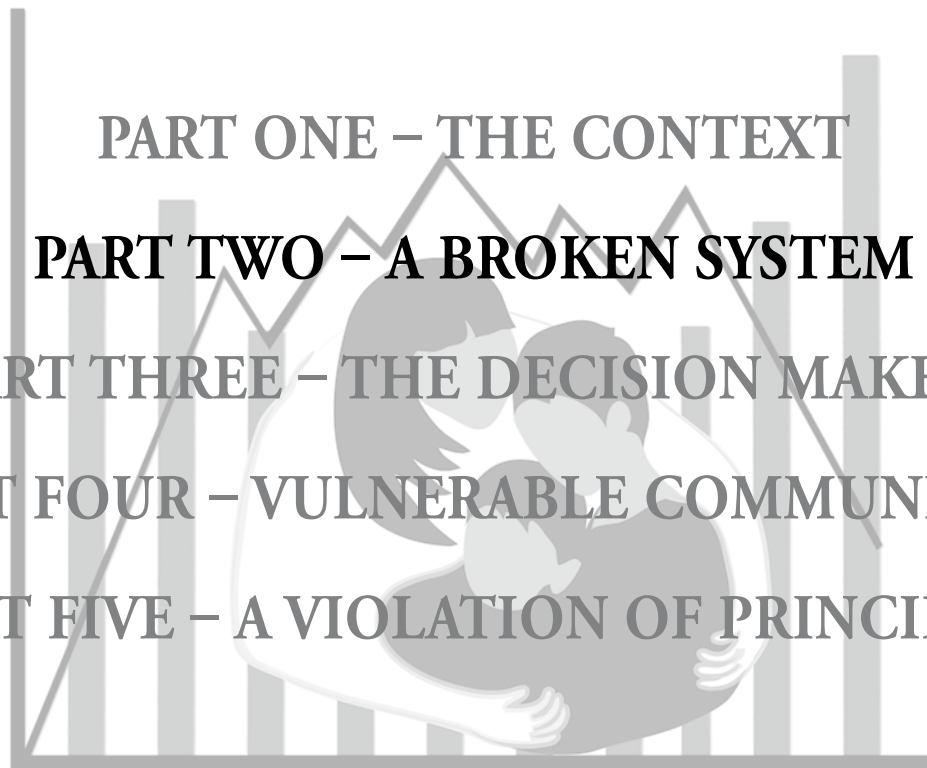
PART ONE – THE CONTEXT

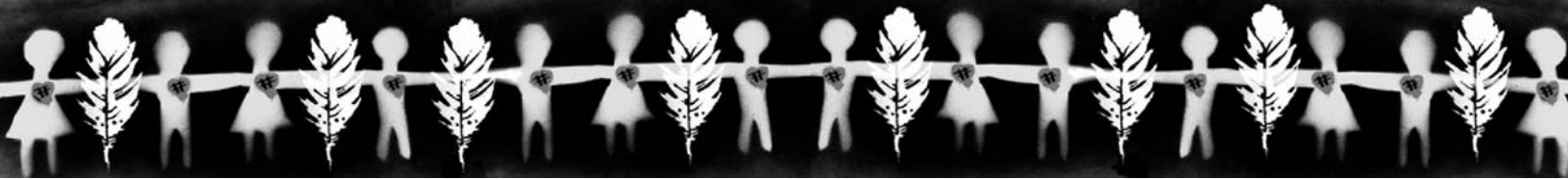
PART TWO – A BROKEN SYSTEM

PART THREE – THE DECISION MAKERS

PART FOUR – VULNERABLE COMMUNITIES

PART FIVE – A VIOLATION OF PRINCIPLES





COMING UNDER THE SCRUTINY OF THE MINISTRY

The Ministry is a powerful and imposing presence in the lives of many poor and/or single mothers, particularly Aboriginal mothers. For these mothers, the Ministry's power is not limited to their offices; it is felt almost everywhere they go. Mothers come to the attention of the Ministry through a myriad of avenues: their financial assistance worker, shelters, hospitals, daycare centres or their child's school.

Some mothers are the subject of a protection report made by a neighbour, family member or someone else in the community. Others come to the attention of the Ministry when they make a voluntary request for services. On the surface, these linkages to other governmental institutions and community services seem like a positive feature of the system. Inter-ministry coordination allows the Ministry to better monitor parents and identify children who might be at risk in order to provide access to services and resources. However, many mothers spoke about the anxiety, distrust and isolation that result from feeling constantly watched and judged and as though any slip up, real or perceived, could lead to reports to the Ministry.

Mothers' fears were not necessarily tied to any particular aspect of their lives that they wanted to hide. One mother compared the unease she lives with to how many people feel when driving with a police officer nearby:

I don't know how other people feel, but if you ever drive or something and there is a cop behind you and you automatically get nervous and you haven't done anything, I am like that with them because even if you haven't done anything, I'm always waiting.

Interview #1

Another mother discussed the lengths some women would go to avoid Ministry scrutiny:

There are women who are afraid to accept food from the food-bank because they believe that it is an indicator that identifies you as an at-risk family.

Interview #24

A grandmother explained that she chose to avoid asking for needed services because she was afraid that the Ministry would become involved and apprehend her grandchildren from her:

I have always been afraid to call the Ministry to ask for any help because of my negative past experiences. I wanted some respite care but because my granddaughter is labelled NAS and my grandson is labelled ADHD I feared that they would tell me that I was not able to care for them on my own and apprehend them from me.

Affidavit #5

The diagram in Figure 1 (on page 26) represents the daily struggles of a poor single mother. She is faced with a very real paradox. On the one hand, she must rely on government programs and community agencies to ensure her children's needs are met. On the other hand, she fears using these services because it may trigger Ministry involvement in her life. She is doing her best for her family with her limited resources and yet she is worried that someone will feel she is not doing a good enough job leading them to make a report. She feels constantly watched and judged. There are very few places that she can be open about some of the struggles she is having as a parent.

Poor parents are particularly at risk of coming under the scrutiny of the Ministry through their use of government and community services. Parents with resources at their disposal can purchase services privately and rarely have to access targeted or means tested government programs. The problems faced by poor families also tend to be more visible. They take public transit, make use of a range of public services and

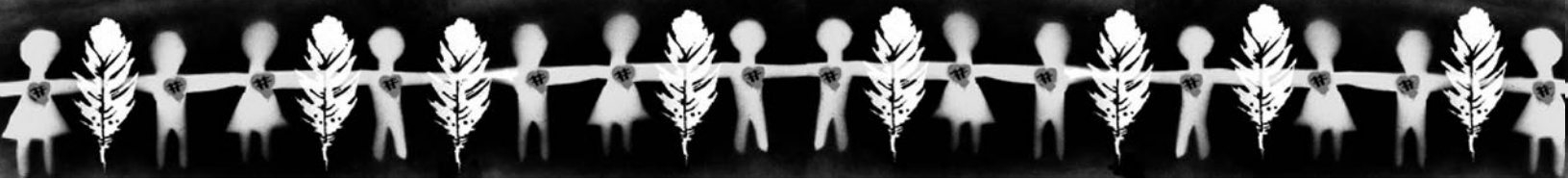


FIGURE 1: WEB OF SURVEILLANCE

I went back to my old shelter and asked if they had an extra bed because my new one didn't have a bed. And they said no, they didn't and they were going to find me another house, another shelter. I said no, it's okay I will just go down the road to my sister's and so they called my social worker since I was out there at 1 o'clock in the morning.

Interview #23

I was involved with this church and I figured that they were my support, but actually you know, they would call the Ministry on me all the time.

Interview #5

I was never told who called the Ministry in order to get my children apprehended. I felt like it must have been a woman I was having a personal conflict with.

Affidavit #10

Shelter

Police

Medical Services

Church

Neighbour

Daycare

Social services was right there when she wasn't even out yet. She [the social worker] came almost right into the room and the doctor had to tell her to leave.

Interview #4

MCFD first got involved in my life when I called a crisis line to talk to someone about the problems I was having with my parents. The woman on the crisis line told me she would pass me on to someone who knew more about my issues. She passed me onto a social worker at MCFD. Over the telephone, I was informed by this social worker that I was an unfit mother. I felt like this only happened because I was open about my difficulties and was very upset when I had called the crisis line. The staff at the crisis line told me that it was a totally confidential call. I was never informed that my call was being transferred to a social worker who had the power to remove my child.

Affidavit #8

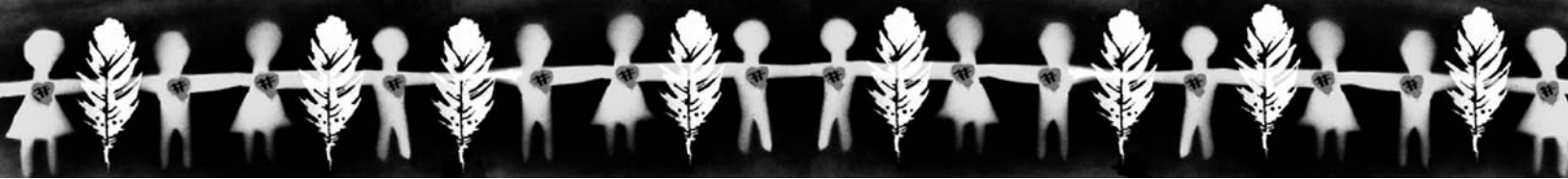


Welfare

A lot of parents are very apprehensive about ticking that "is this an Aboriginal child" box when they enroll their kid in school. [The parents think] now the teachers are going to focus on my kid, or label them for ADHD or FAS, which is not uncommon. Well, if that starts happening, all it takes is one call to the social worker or for the parent to screw up once, and then all of a sudden MCFD is involved.

Aboriginal social worker

School



often live in overcrowded conditions. Stereotypes and biases about Aboriginal people, people on income assistance and single mothers also affect the way in which these families are perceived by the outside world, making them more vulnerable to protection reports.

Former youth in care

Social workers engage with a relatively small number of families on a recurrent basis. In 2001, 52 percent of children in care were from families where there had been previous admissions into care.⁴⁸ Not only are a large proportion of mothers that are coming into contact with the child protection system former kids in care, many of them are still in care or have only recently left care themselves.

In British Columbia, young women in permanent care become pregnant at four times the rate of young women who have never been in care.⁴⁹ Unfortunately, if trends in B.C. hold over the next few years, many of these young women's children will themselves grow up in the care of the state.

Most of the mothers that participated in this project had ongoing interaction with the child protection system throughout their lives. For many, their first experience with child protective services was among their earliest memories:

My first contact with the Ministry was when I was about six years old. I was apprehended because my mom and them were drinking and violence in the house . . . [it was] scary, I was terrified and the people in [the foster home] weren't really nice.

Interview #11

I think we have always been involved with the Ministry. That's how we've always lived . . . I come from four generations of residential schools.

Interview #25

Many young women coming out of care are determined that the cycle will end with them, as this 25-year-old mother explains:

I have been involved with the child protection system since I was 13 years old. I never thought that I would be involved as a parent because I had such an awful experience as a youth in care. I promised myself that I would never let my own child go through what I had to go through.

Affidavit #9

However, for young women leaving care it is very difficult to avoid getting caught in the child protection system as parents. Unfortunately, once a child becomes an adolescent, rather than being seen a child-victim, she is blamed and disciplined for displaying problematic behaviour. This often results in repeated transfers to different foster homes as well as criminalization.⁵⁰ In their research with young moms in foster care, Callahan *et al.* found that these girls were quickly redefined from victims in need of protection to problem individuals beyond help:

Our respondents also expressed the uncomfortable feeling that they had already been discarded by professionals because, by becoming teenagers and then mothers, they were already too old to be changed. Although they felt that they received more attention from social workers when they became pregnant, the attention seemed to be focused on their unborn children.⁵¹

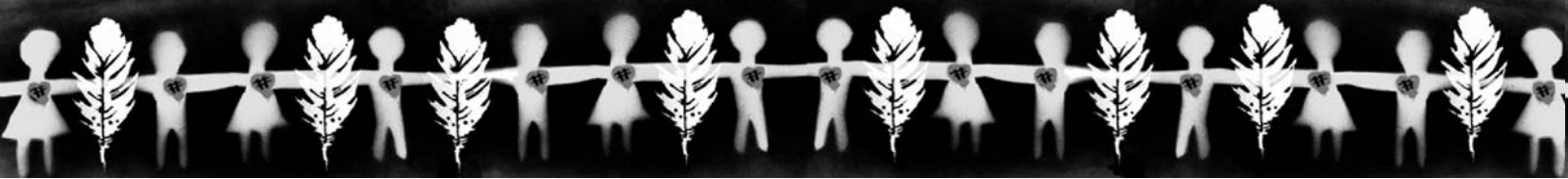
Young women in care and those who have recently come out of care often feel unfairly targeted by the Ministry of Children and Family Development ("Ministry"). Given that the government has served as legal guardian to these young women it is reasonable to expect that Ministry staff would be available to them in a supportive role when they become parents. This does not seem to be happening; young mothers we spoke to reported feeling scrutinized, judged, and fearful.

Asking for help

The Ministry was created to ensure integration of services for children and families, including non-protective services such as supports for people living with disabilities. A number of the mothers we spoke to came to the attention of the Ministry when they asked for services or were looking for referrals to resources only available through the Ministry. While some parents did report receiving at least some of the help they were looking for, others felt there was a cost in terms of their autonomy:

I had to get help for my son, he has developing problems with language and stuff, so I had to get them to make a referral . . . I don't really like it because now they seem to think its their business what I do with my son. I needed their help just to get a referral and they used it to get more involved in my life and in my son's life.

Interview #21



One social worker with over ten years of experience working at the Ministry explained that social workers did not used to have to open a family service file in order to provide a referral or offer other support to the family. Now, in order to receive any service, including a referral to an outside support, a family service file must be opened.⁵² Many services are also reserved for children labelled “at-risk,” the obvious presumption being that the parent has failed to protect the child. Of course, this only becomes an issue for families that cannot afford to pay for these services privately. Parents with adequate resources are not asked to declare their child “at risk” in order to hire the services of a nanny or to see a specialist. The system only seems to require that the most marginalized in our society make these types of admissions with respect to their parenting in order to obtain publicly funded resources to keep their children safe.

Mothers often fear that the information they provide about why they require a specific service could later be used against them to demonstrate that they are not capable parents. A single

mother with a disability whose son has special needs explains the bind for parents in her position:

They're making you basically libel yourself saying that your child is at risk. They say "we don't really mean at risk, you know what we mean." Like, hello, that's bureaucratic talk. It's "at risk" what do you think people think when you say at risk? So to get certain help you have to say your child is at risk from you and people try to dance around it.

Interview #18

Some parents reach out to the Ministry with fairly minor problems. Others come with more pronounced needs. Section 6 of the *Child, Family and Community Services Act* (“CFCSA”) gives the Director the power to make a written agreement with a parent who has custody of a child and is temporarily unable to look after the child in their home.⁵³ Through these “voluntary care agreements” parents can place their children into care

Winnie's Story: Voluntary Care Agreements

Winnie is a grandmother of five children. She currently has custody of the oldest of the five. Originally, her oldest two grandchildren were in her care until she got sick and became hearing impaired. Due to her health problems, Winnie was having a difficult time caring for the two children:

Parenting while I was sick became too much, so when my second eldest grandchild was about three years old I agreed to enter into a voluntary care agreement.

Affidavit #6

Winnie feels that her choice to seek out help was ultimately used against her:

In the court papers following the voluntary care agreement, the Ministry wrote that I was “unable to cope” with my grandchild due to sickness. I feel like this is unfair because I recognized my limitations and abilities and I asked for help when I knew I needed it. I do not feel like this means I could not cope.

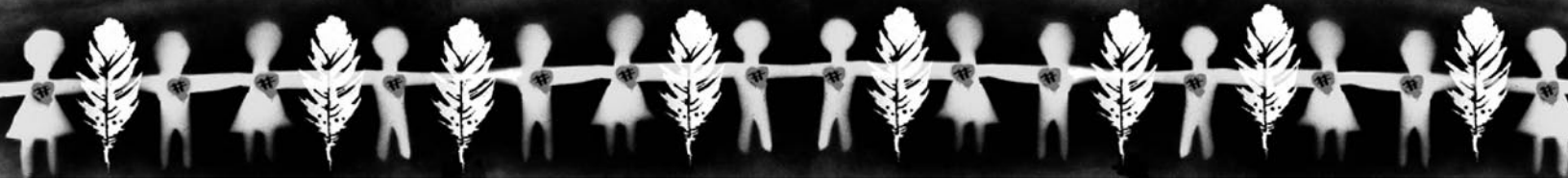
She is also upset because supports she could have used to prevent her granddaughter going into care in the first place were not offered to her:

If I had been given the proper supports at that time, I feel like I could have kept my granddaughter in the home. I was not given these supports and I felt like I was forced to enter into a voluntary care agreement so that my granddaughter was safe.

Section 6 of the *CFCSA* explicitly states that less disruptive measures should be considered prior to signing a voluntary care agreement with a parent.⁵⁴ However in Winnie’s case no alternatives were offered. Winnie’s alleged “inability to cope” during her sickness has had long-lasting implications for her family:

After we got things sorted out and I felt like I could handle having my second eldest grandchild back in the home, I applied for legal aid to get custody of her and have been going to court for her ever since. This was approximately three years ago.

In Winnie’s case, the Ministry’s sole concern is that she is not well enough to provide for her grandchild. Her older child continues to reside with her. There was never an investigation that revealed a protection concern. Rather, Winnie willingly came forward, demonstrating that she knew when she needed help. Yet, her granddaughter is still in foster care and the Ministry is now looking into adoption.



for an agreed upon amount of time and regain guardianship when the parent recovers from an illness or deals with personal issues. For single parents, parents who have been separated from their biological families due to their own involvement with the Ministry, or grandparents caring for grandchildren, these agreements may be the only option in times of sickness or crisis. However, a number of parents we spoke to found that once they entered into these agreements and their children or grandchildren were placed into care, they remained in care long after they wanted the agreement to end.

Ideally, the Ministry would be a place parents could access the services and supports that they need to care for their children in their home. Instead, mothers who voluntarily went to the Ministry for help found that they were stigmatized as bad parents and that any help they received came at a price. In some instances, asking for help resulted in the realization of their worst fear, the apprehension of their children. These experiences raise questions about the effectiveness of having one government ministry control access to supportive services while also carrying out child protection investigations.

Section 14 of the CFCSA: The Duty to Report

Section 14 of the *Child, Family and Community Service Act* places a duty on everyone who has a reason to believe that a child is in need of protection to report to the Ministry of Children and Family Development. This duty applies even if the information is confidential – for example, information provided by a parent to a psychiatrist. The only relationship that is protected is one between a lawyer and their client – solicitor-client privilege.

Individuals can report anonymously, and no action can be taken against a reporter unless it can be proved that they knowingly reported false information.⁵⁵ Failure to report information is an offence under the *CFCSA* and carries a maximum penalty of a \$10,000 fine and/or six months in jail.⁵⁶

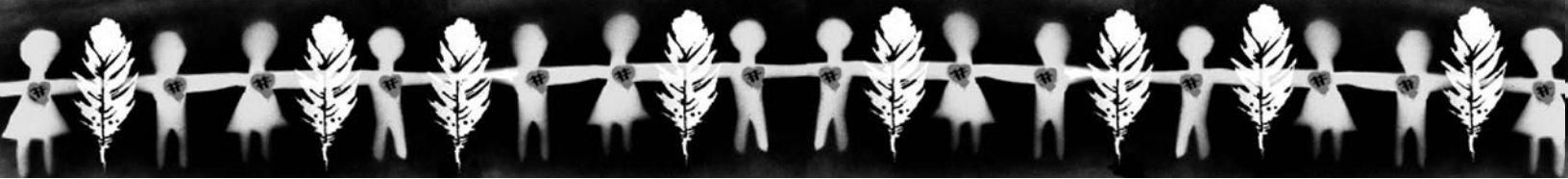
A review of the caselaw dealing with duty to report in B.C. and other jurisdictions in Canada with similar legislation reveals that there have not been any cases of an individual being charged with the offence of *not* reporting. The Supreme Court has recently considered the scope of the duty to report in child welfare legislation in *Young v. Bella*.⁵⁷ The Court held that while the primary goal of the duty to report clause in child protection legislation is the protection of children, this duty should be performed in a way that respects the interests of those who are under suspicion of child abuse as well as the informants. The Court noted that the fact that the Legislature required that there be “reasonable cause” to report (similar to requiring a person to have a “reason to believe” in B.C. legislation) suggested that there should be some level of protection for “third parties who may be adversely affected by irresponsible reports.”

That being said, the Ministry takes the position in its public education materials that the general public should err on the side of caution, making a report even when they might not be certain that there is a concern. The Ministry goes on to assure the public (potential reporters):

*It should always be kept in mind that if a person is unsure whether or not to report he or she can call a child protection office for advice. The duty to report in s. 14 sets out when a person is required to report. A person can voluntarily report at any time provided they do not knowingly report false information.*⁵⁸

While these instructions may appear to simplify matters for potential reporters, it can have devastating effects on parents who are the subject of a child protection report.

The underlying rationale behind section 14 of the *CFCSA* is to ensure that all children are protected and to encourage a joint responsibility between the Ministry and the general public for the protection of all children in society. However, the broad scope of section 14, which requires anyone who has reason to believe that a child may be “in need of protection” to make a report to the Ministry, can be counterproductive. The duty to report is not limited to emergency situations; it extends to any situation where a child “may be in need of protection” – a situation that is very broadly defined in the *CFCSA*. This duty creates a climate where parents, overwhelmingly marginalized parents, are reluctant to trust service providers and members of their community.



Protection reports from community members

The feeling of being constantly monitored was particularly acute among the women in our study who did not know who had made protection reports about them and among parents who knew that a report had been made by a person whom they had trusted and viewed as a support. Some mothers, particularly those who felt like they had been successfully parenting their children for many years, experienced shock and disbelief when a social worker contacted them to tell them that someone had called to report a protection concern:

The next day I went into shock because, and maybe I'm a little egotistic, but I just thought if someone is going to call the Ministry of Children and Family Development about me, no parent in this province is safe. I may not be perfect, but my God, I've been doing everything.

Interview #18

Parents do not have the right to know who has made a report to the Ministry about them. The *CFCSA* prohibits the disclosure of the identity of a reporter. This makes good policy sense as we would not want to promote a situation where people are afraid to make a report to the Ministry when they believe a child is in danger. However, the broad duty to report combined with a reporter's right to remain anonymous leads to an aura of distrust within communities.

It develops the snitch culture thing where people don't have to be responsible for what they are doing and really think

it through, and maybe have the courage to go and talk to somebody.

Interview #18

It may also cause mothers to draw away from their friends and communities during times when they, and their children, need support the most. A number of mothers also felt that the reporting system was routinely used vindictively as a way of settling interpersonal disputes. One mother talked about how she believed that a report must have come from either her ex-partner or someone who was in conflict with him. All she was ever told was that a man had called the Ministry and reported that she was dealing drugs:

I said I don't even know who it is . . . If it has to do with her dad, I mean I'm not with him anymore and I have changed and done a lot to keep him out of my life . . . Someone could not have a liking for you, they could want to get at him.

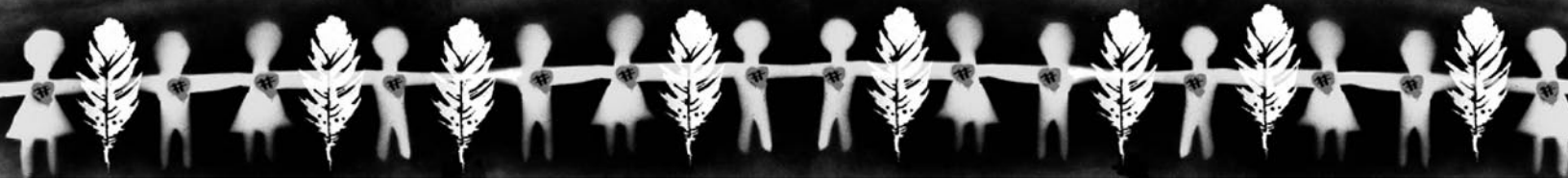
Interview #27

These conditions result in some mothers completely withdrawing from their social networks in an attempt to avoid any reports being made about them to the Ministry:

I do not have much contact with anyone now. I am really worried that people can call and make fake reports about me and my children to the Ministry. I never want to go through what I went through again.

Affidavit #4

For poor parents, Aboriginal parents and/or parents who have grown up in care, the fear that the Ministry will remove their child or future child is a very real one. Parents that we spoke to were almost all living in poverty and most of them had some involvement with the child protection system as children. Their actions are more heavily scrutinized than other parents, increasing the likelihood that child protective services will become involved in their lives.



APPREHENSIONS AS THE LAST RESORT?

B.C.'s child protection legislation recognizes that the removal of a child from their family home is very serious and that the least disruptive measure should always be used in determining a safety plan for children. At several points throughout a child protection case, a social worker is charged with the task of considering whether there is an alternative to removal that is less disruptive.

For example, when a parent voluntarily approaches the Ministry for Children and Family Development ("Ministry") for assistance in looking after their child on a temporary basis, a social worker must be confident that there is no alternative that is less disruptive before placing a child in foster care under a voluntary agreement. The legislation specifically provides that the social worker should assess whether providing available support services in the home would be sufficient, rather than placing the child under the care of the Ministry.⁵⁹ The legislation further provides that a social worker can only remove a child from their home, without a court order, if they have reasonable grounds to believe that either the child's health or safety is in immediate danger or that there is no other less disruptive measure that could adequately protect the child.⁶⁰ Accordingly, a child could be returned to a parent prior to the presentation hearing, an initial hearing that must take place seven days after a removal, if a less disruptive alternative to removal has been found.⁶¹

The spirit behind this principle is lost, however, where there are inadequate resources in place to ensure the process of looking for alternatives is a meaningful one. The problem is twofold: social workers caseloads are too large to allow them to do a proper assessment of the alternatives to apprehension for a family; and even when social workers have the time, the resources to which they would like to direct families rarely exist.

Mothers explained that their social worker did not assess other available options prior to removing the child from the home. One mother describes how she wishes social workers would approach situations like hers:

[Social workers] could ask them where they could be more supportive, what they could do to get them help. Not just say "I am going to take

your child," but "you want some help? I can get it for you" and things like that, not just take the baby . . . they could have at least offered some help in terms of housing, but they didn't bother.

Interview #13

The least intrusive option, in cases where there are some concerns about a child but no immediate risk of harm, is the provision of support services to help the family cope with challenges they may be facing. The guiding principles of the *Child, Family and Community Services Act* ("CFCSA") require that if, with available support services, a child can be safely cared for in the home, such services should be provided.⁶² The legislation also grants a social worker the authority to enter into a written agreement with parents to provide or assist them in purchasing services to aid them in caring for their child.⁶³ Some of the mothers we spoke to did not feel as though such services were offered:

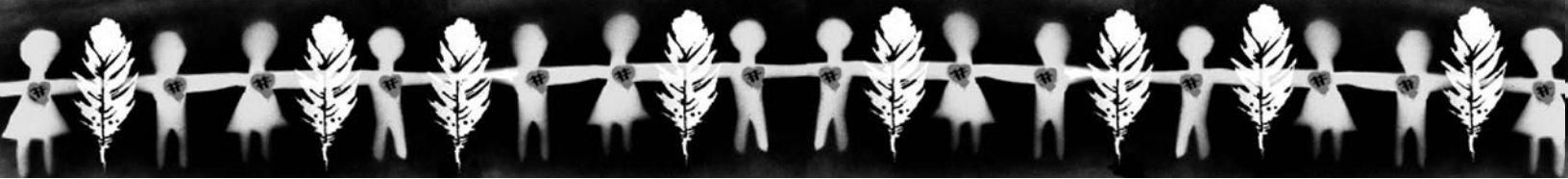
I felt like I was being punished for being honest about my difficulties. I was not offered support services; instead my child was taken from me immediately. That experience has made me more cautious about seeking help and less trustful of service providers.

Affidavit #8

Some mothers attempted to address concerns prior to giving birth. One mother told us she had contacted the Ministry early in her pregnancy but did not get any response until very soon before her due date:

I tried to contact them myself, to make an interview or whatever. They never contacted me back until two weeks before I was due.

Interview #2



Some service providers who work with parents involved with the Ministry feel that social workers are under pressure to deny support services because of the cost to the Ministry:

The impression I get from some people I know that work in the system is that the goal is, if possible, to deny service or only give it to people in crisis . . . I also found that social workers seem to have a certain code, so if a client asks for respite care they don't approve that, but they will approve daycare. So if a client doesn't know to ask for a daycare subsidy they are not going to get any respite care. So a lot of it is terminology, rather than saying we cannot give you evening or weekend respite care but we can give you daycare they say "that's not available" or "you don't qualify."

Focus group with service providers

In addition to exploring the use of support services to keep a parent and child together, social workers are directed to explore alternatives to foster care such as placing a child with extended family or a close friend. A number of mothers reported that no such efforts were made in their case. Even in cases of prolonged Ministry involvement, some mothers reported that their social worker failed to inquire about possible options in advance of the apprehension. Some parents expressed that they would have given their children to a relative voluntarily while they worked to resolve a child protection concern, but were entirely unaware that an apprehension was imminent.

Social workers are saddled with a difficult mandate. They are supposed to be looking for alternatives to apprehension, but their caseloads are so large that they do not have sufficient time to spend with parents doing an appropriate assessment of the parent's needs and options. When they do have the time to do an assessment, they are sometimes faced with the reality that although they could imagine the resources necessary to keep a child at home, the resources are not available to them. Housing is the most common example of this resource problem. A social worker describes how his high caseload and the lack of available resources leave him unable to fulfill his mandate:

. . . if I had a smaller caseload and the ability to spend more time with parents to get to know them so that I'm not making the judgment or making the decision based on limited information . . . because if I haven't seen mom in two or three months and mom comes to me and tells me all of the things she's being doing . . . it sounds great, but I can't make an appropriate decision based on that so sometimes you're better off to say, "Well I can't make a decision right now" . . . if I had more time to say, "I'm going to bring little Johnny with me so I can interact with the mom," I can interact with the child and I can see maybe if she has other children

at home, maybe the house is too small, so how can I assist her in finding adequate housing so that I can return the child.

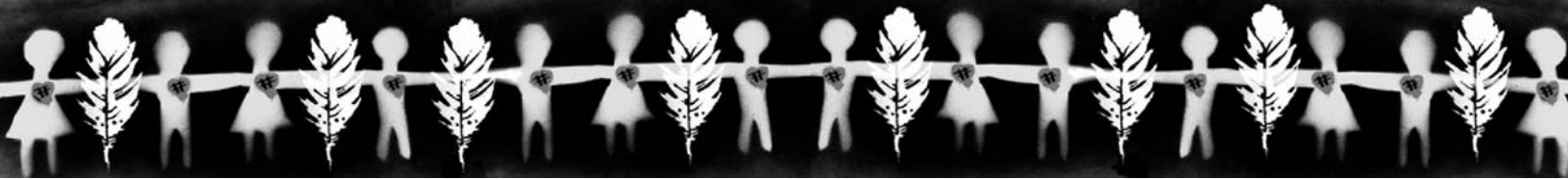
Interviewer: *And right now you don't have the time . . .*

Yes, right now mom is living in the SRO in downtown because that's all that is available . . . I can't return the child into a SRO, but if I was able to work with her and have her visiting regularly with the child and if there were adequate resources . . . like housing is so huge, it is such a huge issue . . . so you know, do I really want to see mom sleeping on the couch, so yeah cut the caseloads in half at least, right . . . if I had ten files and I feel like I can give the kid a bedroom . . .

Interview #3 with social worker

Both mothers and social workers talked about the lack of treatment facilities that allow mothers with substance use issues to attend along with their children. Currently, there is only one facility of this kind in all of British Columbia: Peardonville House Treatment Centre, an addiction treatment facility located in Abbotsford, B.C. Eight rooms are reserved for women with up to two children between the ages of three months and five years old. All day child care is available to ensure that mothers can participate fully in treatment programs. At the same time, staff work with mothers to help them develop parenting skills that will assist in long-term recovery. The centre staff are also committed to working with the children in their care to assist with their cognitive, social and emotional development. These eight beds are not enough to meet demand, and there are currently no treatment facilities in British Columbia where a mother can take her baby immediately after birth. This creates a situation where removals become necessary simply because of lack of resources.

A social worker who had been working for the Ministry for five years described her ideal solution. She dreamed of creating a space where parents could live with their children for a temporary period of time, where they could learn parenting skills, address addiction issues, and see counsellors to address childhood abuse and/or domestic violence. Instead of removing children from parents, this social worker thought it would be in the child's best interest to be raised in an environment where his mother was learning how to parent and addressing her own needs in a way that could still guarantee the child's safety. Unfortunately, this is only a vision and there is nothing like this in British Columbia or anywhere in Canada. If adequate resources were put into realizing this social worker's vision, it is likely that many apprehensions could be avoided; there would be a clear, safe alternative available for many children who are currently ending up in foster care.⁶⁴



Shields for Families: Exodus Program,⁶⁵ California

The Exodus Program is housed in an 86-unit apartment complex in Compton, California. The complex was purchased in 1994. The Exodus program is an abstinence-based comprehensive care program combining family-based housing with:

- counselling (group, family and individual)
- child development services
- vocational, lifeskills and parenting training
- mental health services
- medical care
- family support and family reunification services

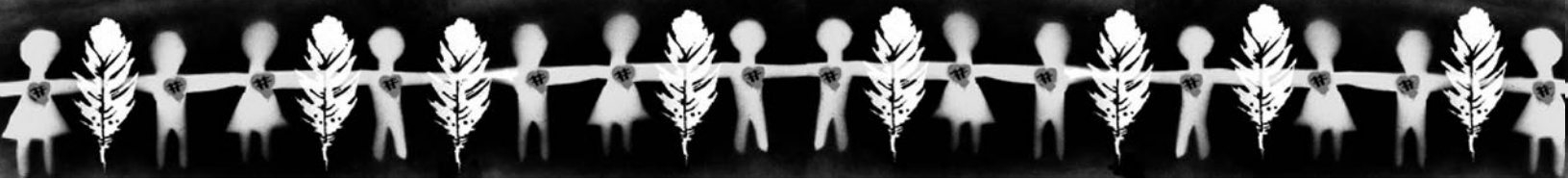
The goals of the program are: to achieve positive prenatal outcomes, promote family reunification, treat the range of physical, psychological and addictive disorders, and assist families in achieving economic and social security while providing them with stable and affordable housing.

The cornerstone of the Exodus Program is the combination of relatively long-term housing with comprehensive treatment. In this way, families do not have to be separated nor do they have to leave their housing or their established support network upon completing the 18-month program.

Families are permitted to stay in housing for one year after completion of the program in order to transition back into the community. Most of the women who come to the Exodus Program have multiple children and therefore children greatly outnumber adults. As such, specific services have been developed for children of all ages.

The Exodus Program was part of a rigorous national evaluation program as well as a local evaluation. The completion rate for the program was found to be between 65 percent and 75 percent. An average of 80 percent of women remained drug-free 12 months post-treatment. Criminal justice involvement was reduced by 90 percent, while 85 percent of mothers were reunified with children who had been placed in foster or kinship care. One hundred per cent of women who completed the program finished high school. The children who participated in the program also showed very positive outcomes: 95 percent of the babies born in the program annually have been born healthy; children have shown improved social, mental and physical health and improved motor and language skills; children displayed fewer behavioural problems and improved school performance.

The least disruptive alternative principle within existing legislation is rendered meaningless when social workers do not have the time to explore alternatives to apprehension for a particular family and when there are no resources available to provide a family with the supports needed in order for a child to remain with the parent. It goes against the spirit of the legislation to remove children simply because of a lack of adequate resources. The lack of supportive and preventative services is not only a violation of the provisions of the *CFCSA*, it is indicative of a short-sighted, crisis-driven style of child protection work that fails to support the integrity of families or the best interests of children. This systemic failure ultimately leads to a cyclical pattern where many children in care become the parents of children in care.



LACK OF TRANSPARENCY

At every stage in the child protection process, mothers talked about the difficulty in obtaining information about their case from the Ministry. We repeatedly heard that there was miscommunication or, more often, a complete lack of communication between mothers and their social workers – leaving parents without important information related to the status of an investigation, the reason for an apprehension, the Ministry’s plan for the future of their child, or basic details about a child’s foster care placement.

The investigation

A number of mothers explained that they were never told that they were under investigation, even when they were actively working with a social worker. Contributing to faulty communication between mother and social worker is confusion about the social worker’s role – a support person or an investigator. In some cases, social workers failed to be transparent about their role as an investigator, putting mothers in an unfair position. A number of mothers explained that they were shocked when statements they had made to their social workers during what they believed to be casual or confidential conversations about their concerns and needs as parents ended up being used as part of the basis for the removal of their children.

One mother only found out that an investigation had taken place years later when she obtained her file through a *Freedom of Information* request. This mother of a special needs child explained that she was shocked to learn that the social worker who had come to her home was actually conducting an investigation:

I thought this person was here just to introduce herself and talk about things. She did not say there were concerns, she did not say they were investigating and it was just her and me. She did not say anything like that.

Interview #18

A front-line worker at a women-serving organization in the Downtown Eastside explained that confusion about the role of the social worker and lack of clarity around workers’ investiga-

tive function is exacerbated in cases where support services are offered through the Ministry. These support services can also be used as information gathering tools:

Preventative services and alternatives to apprehension are often used vindictively. Homemakers or doulas⁶⁶ often act as “spies” for the Ministry workers . . . these workers take advantage of clients who don’t understand what the homemaker or doula’s job is.

Focus group with service providers

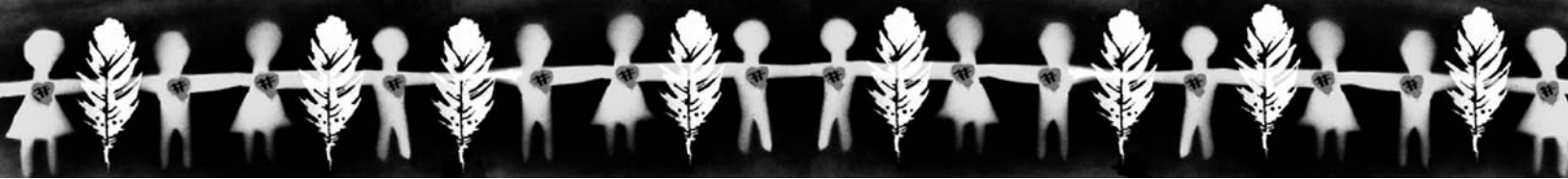
Another mother discussed her reaction to finding out from a staff person at a community agency that the Ministry had conducted an investigation into a child protection report without informing her:

. . . [the agency worker] said “I want to talk to you, do you know that you have another file with the Ministry?” I was like “you’ve got to be kidding me.” I did not even know it was opened. I did not know that it opened or that it closed.

Interview #27

She went on to describe the information that she would have liked to have been provided with during the investigation:

I needed to know what my rights were. No one contacted me or told me who I could talk to, or how to get in touch with these people or what the status of the file was. I was left up in the air.



I still don't know. They should let us find out information. I mean that's just not fair. [I would have wanted] to find out face to face, maybe see a worker or something, not just some rude person on the phone.

Section 16(3)(a) of the *Child, Family and Community Services Act* (“*CFCSA*”) directs the social worker to make all reasonable efforts to report the results of a child protection investigation to the parent. However, a number of mothers reported that they were never informed of the outcome of their investigation.

The apprehension

Section 31 of the *CFCSA* requires the parent be notified within a reasonable period of time after their child has been apprehended and, if practicable, the notice should be in writing and include a statement of the reasons for removing the child. Mothers who took part in this study were all notified that their child had been apprehended in compliance with this section of the Act. However, this was often the only information that they received in the days following the apprehension. Mothers were left with no information about the grounds for the removal, their child's placement or what they should do next. The lack of meaningful information was a serious concern for many parents, and contributed to overall levels of fear and distrust.

A number of mothers recalled not being told exactly why their children were being removed:

When that happened they didn't explain at first, they just came and said, “We are apprehending your child.” They gave me a quick reason and they left. They just took her from me . . . They waited two weeks before they contacted me to tell me why.

Interview #12

Even after the Ministry had contacted her, this mother was unclear as to why they had taken her daughter. She had to rely on the assistance of an advocate at a community agency to obtain this information:

I tried to talk to my advocate at the Women's Centre and bring her to a few meetings. She made it more clear to me.

Interview #2

The lack of information and direction at the time of apprehension leaves mothers feeling scared, confused, distrustful, and

hopeless. Service providers explained how the apprehension process and the lack of information affect their clients:

Complete strangers have walked in, they have taken their children. They are not given any information. They don't know what to do. That's fear.

Focus group with service providers

It is like when your car has been towed and you don't know where to go to find your car. That's how difficult it is. Who do I call? Where do I go? You are not told. Your car is just gone. It's like that, but your child is gone.

Focus group with service providers

A common complaint among mothers is that they were not given information about where their children were going to be living. This created a state of panic – not only were their children being taken out of their home, but some parents had no idea where their children were going:

I was not told where my children were placed. I knew they were in B.C. I asked a social worker what to do, but she did not give me any ideas about what I should do to get my children back. I understood this to mean that I shouldn't bother with the case. Afterwards, I didn't know what to do.

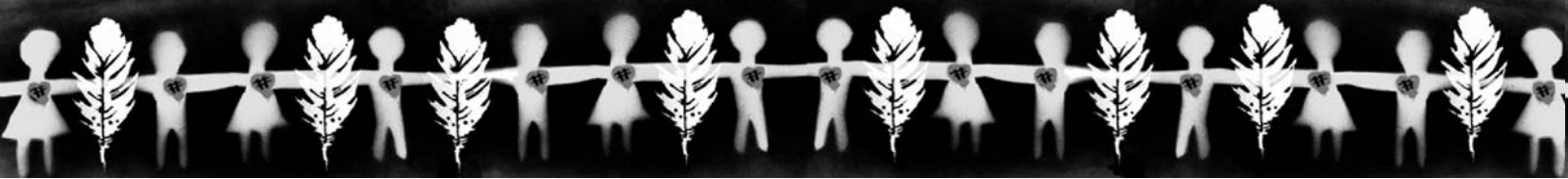
Affidavit #10

Even at the Fir Square Unit at B.C. Women's Hospital,⁶⁷ where there have been concerted internal efforts to support mothers in caring for their children, the Ministry's practices around apprehensions detract from the atmosphere of trust and safety the hospital staff have worked hard to establish. One service provider explains:

At the hospital it is extremely intimidating and misleading when a social worker comes up to a client and says “I am apprehending your child now” and then the mother doesn't know what to do. She assumes she is not allowed to care for her child anymore and she usually leaves the hospital. However, if she got knowledgeable support that could put a little bit of faith into that mother, [someone could explain] as long as you stay in the hospital you can continue to care for your child and then we can fight it. It's brutal language that they use.

Focus group with service providers

Once kids are in the system, the lack of information continues to be a source of stress and frustration. Many



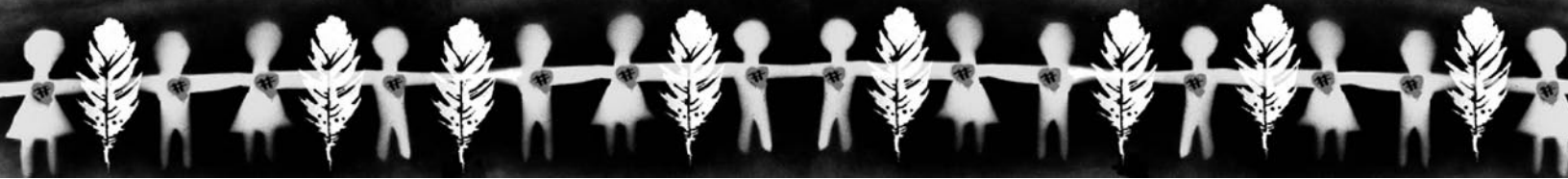
mothers reported spending months trying to figure out why their children were removed, the Ministry's plan for them, and how to go about getting them back:

I am confused. The way they are running it, it's like they don't even know what the hell they are doing with me . . .

Last time my kids were apprehended, I knew and I understood, I was clear about everything. I didn't feel left out in the dark, you know, they were always talking to me. This one, I don't know what's going on. I keep asking people what's going on.

Interview #11

Working with the child welfare system can be a very scary experience for parents. Every effort should be made to ensure that parents are given as much information as possible about their case. Parents we spoke to were unhappy with the amount of information that they were given at various points in the child protection process. Some parents were not notified that there was an investigation. At the time of apprehension, some parents were not provided with information about where the child was going or when they would be able to see their child. Throughout the child protection process, parents should be given information about the status of their file, the Ministry's concerns and the current plan for their child.



PROBLEMS WITH PLACEMENTS AND VISITS

Mothers had a number of concerns regarding placements and access once children were taken into care, including: the barriers to having children placed with relatives; the lack of culturally appropriate foster homes; the separation of siblings; and the long distance between some foster homes and the parents' home. Parents and grandparents were also concerned about: the low priority given to arranging visits with children; the supervision of visits; and the lack of accountability when visits are cancelled.

A number of parents were very upset about the quality of care their children were receiving and the Ministry's lack of responsiveness when they voiced their concerns.

Barriers to family placements

Placing a child with a family member or within their extended social network is considered to be the least disruptive option when a child cannot reside with his or her natural parents. Section 8 of the *Child, Family and Community Services Act* ("CFCSA") grants Ministry staff the authority to make a written agreement with a child's kin or others to provide care for a child in cases where an adult has a relationship with the child and the parent is willing to place the child in that person's care. These agreements are known as "kith and kin" or "kinship care" agreements. Kinship care agreements are a way that the Ministry can protect a child while keeping him or her out of the foster care system. The *CFCSA* states that the Ministry can provide financial and other direct support services required by the relative to care for a child.⁶⁸ However, if financial resources are all that are required, the relative will be referred to the Child in the Home of a Relative program, ("CIHR") funded through the Ministry for Employment and Income Assistance ("MEIA").⁶⁹ Children being supported under the CIHR are not counted as children in care. The grandmothers that we spoke to who were caring for children in their home were being compensated under the CIHR program. Family members and close friends can also qualify as "restricted foster homes" in some instances. Restricted homes

refer to an approved family recruited to care for a specific child or sibling group. In such a case the caregiver would be compensated at the basic foster care rate.⁷⁰

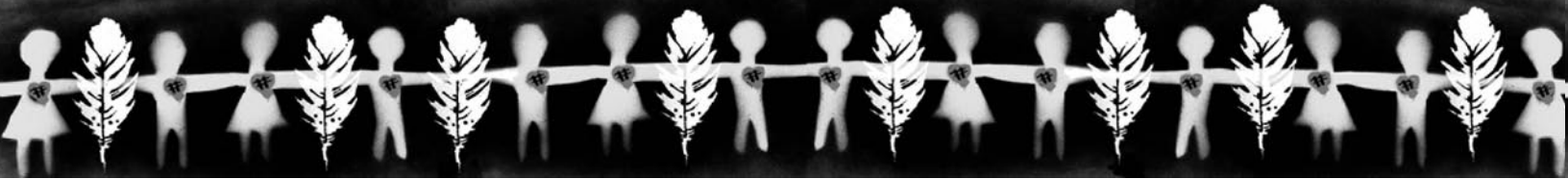
An underlying goal of kinship-based placement options is to ensure that more children, particularly Aboriginal children, deemed at risk are placed with extended family. Yet a number of Aboriginal families reported that they are finding it hard to exercise this option:

I was asked to find a foster home for my youngest grandson, but when I found one in my family I felt like the Ministry only focused on the negatives. The children of the foster father I found for them were never in care, he has always worked, they have a big nice home and no criminal record. The Ministry only told me that they were concerned that he drinks alcohol. I know he does not have a drinking problem but I was never given any more information about why the Ministry did not find him to be a suitable foster father.

Affidavit #6

Another grandmother explained that even though she has done everything that has been asked of her, the Ministry has refused to place her grandchildren with her. She does not feel that they have ever given her an adequate reason for their decision:

For 19 months I did everything that they asked me to do. They had me do a parental capacity test. I go to the family counselling. I put the youngest one in daycare, we did a parenting



program and it is never seen to be enough, they always found an excuse . . . I've done everything that [Ministry] asked of me . . . [Ministry] asked it, I did it. I put my career on hold so that I would be able to have my grandchildren where they belong.

Interview #2

Lack of funding parity for family caregivers

Despite the barriers that some Aboriginal families described in placing children in kinship arrangements, we did speak to a number of grandmothers with children in their care and mothers whose children were placed with family members. However, there are very few financial resources or supports available to family members caring for the child of a relative. Given that most families involved with the child protection system live in poverty, caring for another child or a sibling group is often a major financial hardship.

There is a significant disparity between the resources available to a family caregiver versus a foster care provider. At the time of this report, the basic monthly per child rates for foster homes are set at \$757.67 for a child aged 11 and under and \$866.11 for a child aged 12 and over. The rate is set to increase to \$803.82 and \$909.95 respectively by 2009. Supplements to the basic amounts are provided based upon the level of care required by the child.⁷¹ As of January 2007 there were 4,779 children living with relatives under the CIHR program.⁷² The care these families provide goes a long way in easing the burden on the foster care system. If these children were placed in foster homes, the number of children in foster care would increase by 50 percent overnight. Family members are not being adequately supported in keeping these children out of care. Currently CIHR rates are set at a maximum of:

- \$257.46/month for a child under 5
- \$271.59/month for a child aged 6 to 9
- \$314.31/month for a child aged 10 to 11
- \$357.82/month for a child aged 12 to 13
- \$402.70/month for a child aged 14 to 17
- \$454.23/month for a child aged 18⁷³

While the Child in the Home of a Relative program offers families the opportunity to receive some resources to help with daily expenses, family caregivers receiving CIHR are not entitled to many of the services available to foster homes such as respite care even where children have special needs and children are not entitled to the supports available to children in care.

Culturally inappropriate foster homes

There has been a consistent failure on the part of the Ministry to recruit Aboriginal foster parents. Currently only 15 percent of Aboriginal children in care are living in Aboriginal homes.⁷⁴ While the feeling was not universal, many of the parents we spoke to expressed concern about their children being placed in non-Aboriginal homes:

As far as I could tell no efforts were made to place my children in Aboriginal homes. This is very important and I expressed this to social workers at the Ministry. I tried to have one child be placed with their aunt who lives in Saskatchewan. She even flew to Vancouver to spend time with them while all of this was going on. I never really understood the reasons why the Ministry did not think she was suitable. Sometimes I wish I could just take all of my children and live with my band.

Affidavit #12

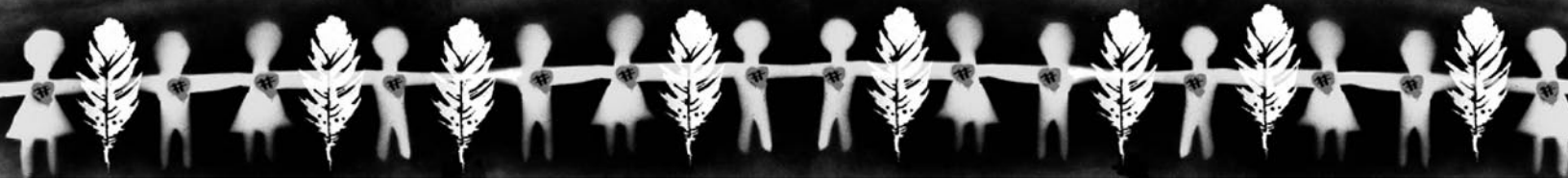
A social worker explained that the unavailability of Aboriginal foster homes is in part a function of the historical relationship between the government and Aboriginal people. He explained that there is a feeling among some Aboriginal people that they will never be accepted as foster parents so there is no point in trying, or they are very apprehensive about the idea of welcoming the Ministry into their home.⁷⁵

Some Aboriginal mothers reported that when their children were placed in non-Aboriginal homes, they had little influence over how the children were cared for and whether or not they would be supported in maintaining their Aboriginal identity.

Separation of siblings and displacement

Many of the mothers we spoke to expressed concern that their children were placed far from home, making arranging visits with them very difficult. Some mothers in Vancouver had children placed in Aldergrove, Abbotsford and Chilliwack, which are not accessible on public transit. Another ongoing problem is that sibling groups continue to be separated. Some parents were working with up to four separate foster homes for their children, and in some instances, siblings never see each other during their stay in foster care.

One mother explains that when her two sons were placed in separate foster homes, she had a hard time keeping in contact with the younger boy, who was only a year old at the time:



I saw more of [older son], right because they were in separate homes so far away from each other. I was in Surrey and they were out in Mission.

Interview #29

Another mother with children in three separate homes who sees all of her children four times a week expresses frustration that the lengthy travel time cuts into time she could be spending with her children (on page 40):

Edith's Story: Child in the Home of a Relative

Edith is a 55-year-old Aboriginal woman. She spent eleven years in residential school and has spent the last 36 years as a caregiver. Edith raised her own three daughters as well as three nephews, one of whom she reports as being diagnosed as fetal alcohol affected, and her niece's son. She is currently raising her two grandchildren and is a caregiver to her adult niece who is deaf and mentally handicapped.

Edith obtained custody of her two grandchildren in 1992 when they were four years and 15 months old respectively. When the children came to live with her, Edith was receiving disability through income assistance. She explains what a financial struggle it was for her to take on the added responsibility:

When my grandchildren were young I got \$250 and a few cents per month for each child. I received no extra help with clothing, rent or furniture for them. I wanted help with activities for them, transportation and vitamins. I did not get any. Sometimes I had to pay out of pocket for the dentist . . . By the time the children were teens I was receiving \$800 per month for the two kids. I could not get a clothing allowance or a Christmas bonus for them like they would have gotten on regular welfare.

Affidavit #5

Although her granddaughter had been diagnosed with neonatal abstinence syndrome and her grandson was classified as ADHD, Edith received no help getting herself the education she needed to meet her grandchildren's needs.

I had to find all my own resources to get help dealing with my grandchildren's special needs. I had to call schools to find programs and educate myself because there was no support.

Housing has remained a serious issue for Edith throughout the time she has been raising her grandchildren:

We always had to take whatever housing we could find. I care for my adult niece who is deaf and seriously handicapped

to help pay the rent. This is very challenging for me as I am getting older.

Edith has found a house that is large enough but it was a "dive" when they moved in. The house was filled with garbage and ants, and the carpet was soaked with cat urine. Edith has managed to make a beautiful home there for her family with her meagre resources and a great deal of hard work.

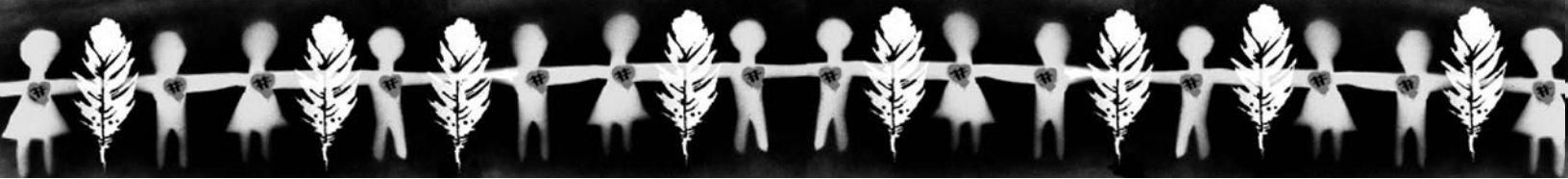
Both of Edith's grandchildren are thriving. Her grandson has turned 19 and therefore Edith is no longer eligible to receive support payments from the CIHR program for his care. Her grandson will complete high school in six months and Edith made a request for the support payments to continue until that time. Her request was denied. Edith explains the impact of this denial on her family:

I have always told my kids that education is power, so my grandson understands the importance of finishing school . . . my grandson was told by income assistance that he should get a job. He really wants to finish school and not be dependent on welfare long term. I don't want him to have to work graveyards and go to school all day. I am just letting him stay with me and continuing to support him. It is hard to keep him housed and fed with no income coming in for him.

While Edith does not regret what she has done for her family, she feels that her contributions really haven't been recognized:

I have worked 24/7 as a caregiver all my life. I fear for myself in my own old age because there is no compensation.

If Edith was a foster care provider she would have received \$1,732.22 per month at the basic foster care rate. Given the children's diagnosed special needs, a foster care parent would likely also receive at least the "level one" specialized care supplement for each child bringing the total up to \$2,525.34 per month versus the \$857.02 she received last year before her grandson turned 19.



Sally's Story

Sally has four daughters in temporary care. She is unhappy that the girls are in care, a situation that has been made all the worse because they are living in a very strict non-Aboriginal home. She explains:

We didn't even have a say – we didn't want the kids placed in this Christian home. This home they were placed in, with this pastor and his wife, it's a white Christian home. We have been fighting for the kids not to be in this home ever since they went there and [the Ministry] would never listen to us . . . they took our kids away, they were taken out of the community, everything.

Interview #5

She would like the children to be moved to a more appropriate home if they cannot be returned to her:

I am hoping that I get my kids back, but if I am not getting my kids back, then I would at least like to be able to say where my kids are going to stay.

Sally and her husband are being pressured to become a part of the foster family's church, despite being involved in her own church:

I have just finished telling them I don't want to go there – I don't feel comfortable you know? . . . I have already gone to their church for the last two weeks, it looks like I'm going to be there this Sunday again. I said I don't want to be going there, so now my social worker is saying, well when you get sleepovers maybe take them to their church one week and then I can go to my church the next week, so back and forth.

Her husband's reluctance to attend this church is being used as evidence that the family is not "working together":

[The social workers] are still not seeing it. I mean we are being forced to go to this white church, attend all of these white activities. We said that, but that's where they say my husband is not working with me, because my husband doesn't want to go there.

She feels powerless against the foster father and believes that the Ministry grants him too much say in her case:

It seems like [the social worker] has been all for the foster parents – letting them have control of my kids, because the foster parents are, well, he's the pastor in a church . . . I just feel like we are up against this guy that's a big man and a Christian or whatever. I feel like we are always being put down.

You know, they are all in separate houses. They are making me travel across town and then travel across another town and then cross another town just to see all my kids. So you think about all that travelling time, I am missing all that time with my children when I could be spending it with them.

Interview #11

Many mothers expressed concern that their children were not seeing each other at all, or only when they had visits with the parents at corresponding times. One mother whose son has paternal half-siblings describes her experience:

There was no effort made to have my son placed with his siblings or to maintain a relationship with them. At one point, it was very convenient for my son to be able to see his siblings when they were in Chilliwack but the foster mother outright refused to allow him to see his siblings.

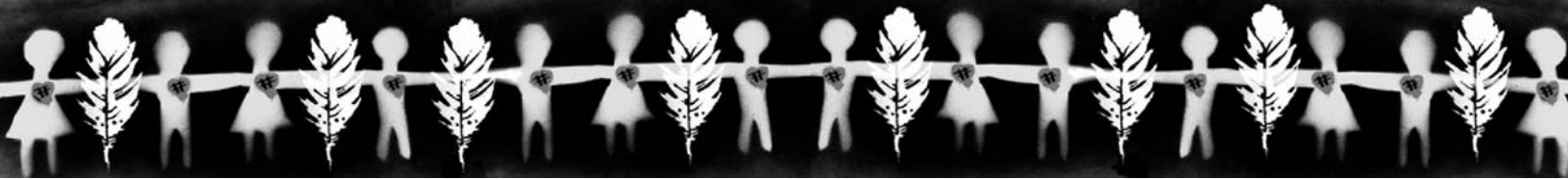
Affidavit #11

Children also continue to be moved from foster home to foster home:

I've dealt with a couple of kids where they might have been through 30 different foster placements or group homes . . . to constantly feel like you're living out of your bags, I can only sympathize, I can only imagine what that feels like.

Interview #3 with social worker

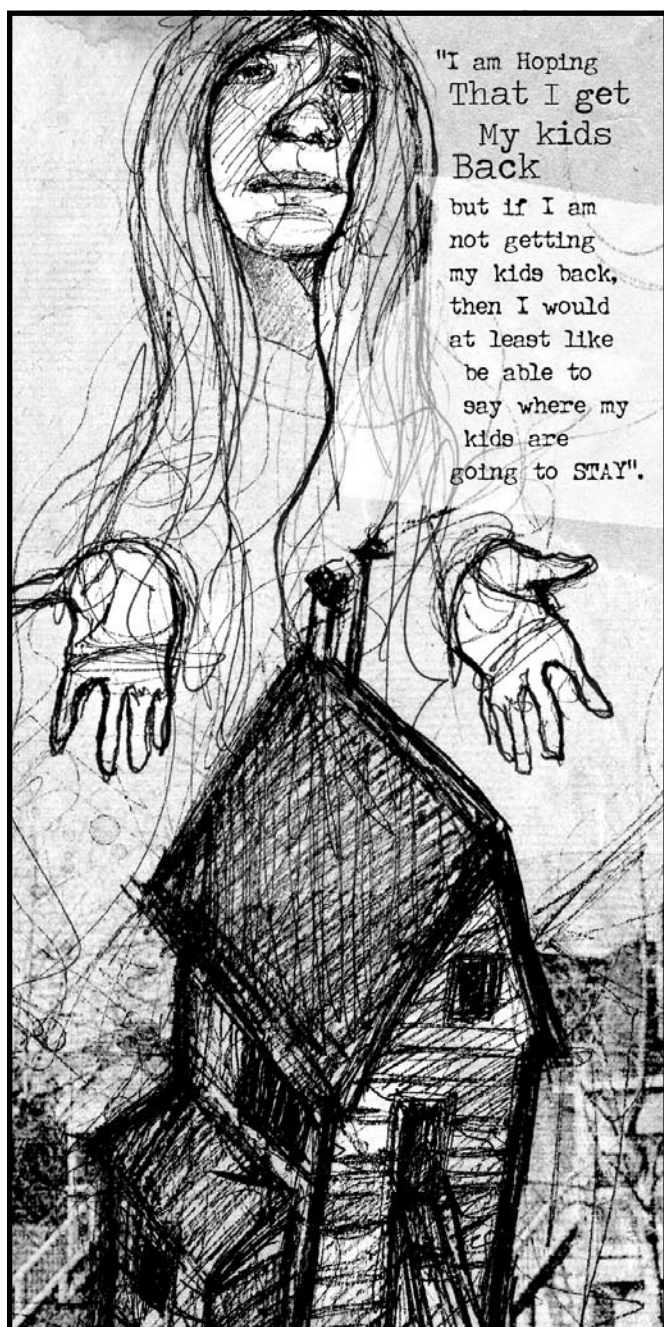
The reality is that there are simply not enough foster care placements to meet the demand. Some results of these shortfalls are children being placed far from home, the separation of siblings, overcrowding, and reluctance on the part of the Ministry to place too many demands on foster parents for fear of losing them. The B.C. Children and Youth Review received submissions from the Association of Social Workers regarding the declining quality of foster care in the province. The Association expressed concern that after the Liberal government took power in 2001, there has been a loss of appropi-



mately 800 foster homes across the province. This resulted in overcrowding in foster homes as well as budget-driven placement decisions.⁷⁶ In the last year, the Ministry has begun a program of investing in foster care and intensive recruitment of new foster parents.⁷⁷

Ensuring that these foster homes are equipped and supported is important. However, minor investments in tempo-

rary substitute homes is not the solution to ending the trauma caused by generations of combined government interference with and apathy toward Aboriginal and impoverished families. In fact, raising the rates foster parents are paid without increasing resources for natural families may reinforce a belief among some members of the Aboriginal community that the fostering of their children has become a business:



For the past seven years, the ones since [VACFSS] has been open to help preserve our children, they keep apprehending them for whatever reason, just to keep foster care in business. We should have foster care for the protection of our children; we shouldn't have foster care just for an opportunity – there's a difference.

Interview #2

Difficulties securing visits

One of the most common concerns expressed by parents was the difficulty they had securing visits with their children in care. Overall, mothers felt that visits with their children were not treated as a priority at the Ministry. One mother, with a young son at home and a daughter in care on the Sunshine Coast, explained she was able to make bimonthly visits work despite not being allowed to visit at the foster home and having no car and few financial resources:

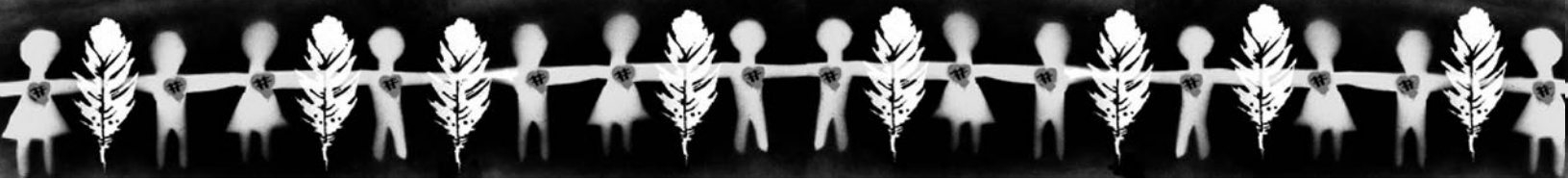
I do it all on my own. [The Ministry] didn't support me in really anything. They don't help me now with visits. I wandered around Gibson. I had my girl there twice a month for two years through all seasons. In the summertime we were just so drenched in sweat and in the wintertime we were just soaked and cold and there was nowhere to go.

Interview #25

Many mothers we spoke to wanted more access to their children. They found it difficult to discuss this issue with their social worker or to get the cooperation of the foster parent. This mother expressed a lot of frustration that she could not get a response to her request:

I have asked my worker if she can get me more access, and I haven't heard nothing yet. All I want is more access to my children, everyday if I could. You know, I am here, I am not doing anything, I could see if I was out drunk and on the streets somewhere missing visits, I have never missed a visit, only once because I had to move.

Interview #11



Social workers have explained to us that there has been a decrease in support in terms of resources and personnel for facilitating visits.⁷⁸ Parents who have been involved with the system for many years noticed this change:

When there had been some ministry cut-backs, my visits became haphazard. There was no longer funding for the drives from Chilliwack to Vancouver.

Affidavit #11

A common concern among parents was that foster parents had too much control over how much access they had to their children. Often parents felt that social workers were working more closely with the foster parent than with them in arranging visits:

I feel sometimes like the social worker and the foster parents are ganging up on me. The foster parent is very protective about how much access I can have and the social worker leaves this decision up to the foster parent. She has never advocated for my right to see my children more.

Affidavit #12

A number of mothers were frustrated because they feel as though visits with them were given very low priority in their children's lives:

I have been offered to have visits with my son on Friday professional days at school. This was promised over three years ago and it still has not happened. There is always some other commitment for my son that takes priority.

Affidavit #11

Parents also report that arranging and maintaining visits is an ongoing problem and that visits are often cancelled without adequate notice or a reason:

[The Ministry] called me Friday night at about 9 o'clock and told me that our social worker had gotten in touch with them and wanted them to give me a message that my sleepover was cancelled. They didn't give me an explanation or anything – we were pretty upset about the whole thing . . . like it left us wondering all week long, what did we do this time?

Interview #5

Other mothers expressed concern that their visits were being cut as a punitive measure. After months of successful

visits with her son, one mother told us that her visits were cut back after she disclosed to her social worker that she had used drugs and would not be able to make it to a visit with her son. The social worker's response was to cut one visit each week.⁷⁹ The purpose of cutting the visits in this case was not in order to protect the child but rather was used as a tool to punish the mother for her behaviour.

Supervised visits

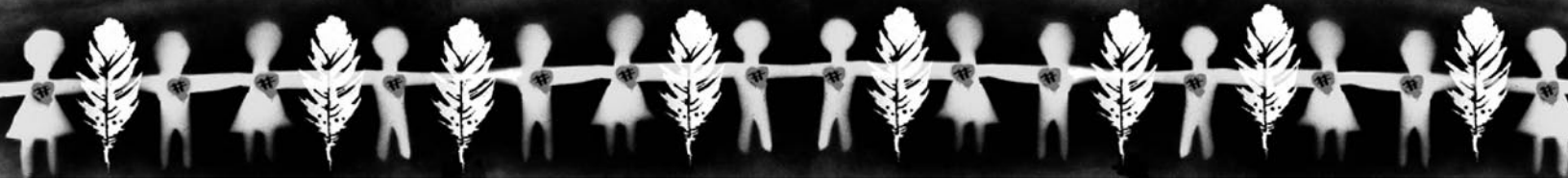
Visits can be supervised or unsupervised. Supervised visits require that an approved supervisor be present with a parent and the child during visits. An approved supervisor can be the social worker, a friend or a family member whom the Ministry approves. Supervised visits are very common, especially when a child has just been removed. Courts normally make a finding with respect to a parent's access in their order. Usually this order provides for "reasonable access supervised at discretion of the Director." This means that it is up to the social worker, in their capacity as representative of the Director, to decide whether or not visits should be supervised and the number of visits as long as the amount of access is reasonable.

Supervised visits are not only ordered in circumstances where there is a fear that a child's safety would be at risk during a visit. One social worker explained that a secondary purpose of ordering visits to be supervised is to give social workers the opportunity to observe the interaction between the parent and the child or at least hear reports from the agency or person who was supervising the visits about this interaction.⁸⁰

Many mothers that we spoke to felt that supervised access is used when it is not required, is difficult to coordinate, and creates an unnatural environment that negatively impacts the relationship between themselves and their children. Many supervised visits happen at the Ministry's offices. One mother talked about how difficult this experience was for her and her children:

I had four months of in-office visits. They call me right in the front window, like the window was open. Every family that came in there knew me. They would come and say, "Hi, what's going on, why are you here?" And then [the office staff] would give me shit because everybody who came in knew me and were wondering why my kids were in care, they would say, "Well, you know you are here to visit your kids, not for visiting people." I said, "I am sorry you got the window laid there . . . like what the hell, you put me right in the front window for four months." I felt like an animal on display, you know.

Interview #11



Shared Parenting Foster Care Models

Shared parenting models may offer a solution to some of the issues raised by parents. Shared parenting refers to situations “in which supportive teaching relationships between birth parents and foster parents were facilitated by the child-protection worker. Shared parenting emphasizes establishing an alliance with parents to protect the children rather than an alliance to protect them from their parents.”⁸¹ The goal is to create long-lasting relationships between the child, the birth parents, the foster parents and the child protection agency that facilitate meeting the changing needs of the children and parent to ensure long-term positive outcomes.

We heard of a few cases where this idea was put to the test in B.C. When one mother gave birth to her first child at 16 someone called the Ministry to report that she was living with her mother and an alcoholic uncle. Rather than apprehending the baby from her, the social worker gave her the option of going into care with her child:

It was semi-independent living, we stayed in the basement suite and the foster parents stayed upstairs . . . It was actually pretty comfortable. I wasn't the first couple of days, but I got used to it.

Interview #12

For some parents, having a foster parent that was willing to keep them involved was very important to the eventual successful resolution of their case:

They kept me involved, like I got to meet the foster parents. They'd invite me for supper on weekends.

Interview #21

However, these experiences seem to be the exception in child protection cases in British Columbia. Parents often never meet the people caring for their children and do not know where their children are living. The shared parenting model allows parents to be actively involved in their children's care and build supportive and trusting relationships with both foster parents and social workers. It also promotes continuity of care for children preventing attachment disorders and allowing parents to develop and maintain parenting skills while their children are in care.

A few shared parenting programs are operating in other jurisdictions. For example, *Shared Family Care* is a project in California and Colorado. The program pairs parents experiencing considerable difficulties (facing homelessness, single parenting or teenage parenting, etc.) with a mentor family. They live in the home of the mentor family for a period of six months to one year. The goal is to keep families safe, while teaching parents independent living skills and parenting techniques. Although parents retain primary responsibility for their children, they are able to approach parenting as a team with the mentor family. Mentor families are often single women who have already raised families of their own. They receive a monthly stipend once a family in need is placed in their home.⁸²

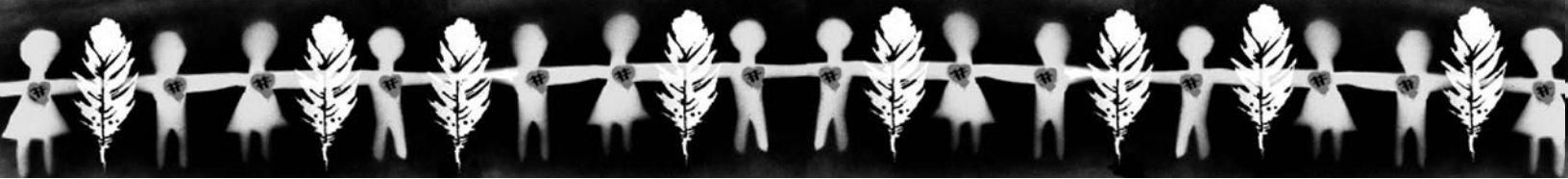
Quality of foster care

A number of mothers expressed serious concerns about the care their children were receiving in foster homes:

I used to go and pick up my oldest son and he used to always be dirty and filthy. You know, no clean clothes. I kept phoning the social workers and getting “Oh he's not in.” My son, he'd tell me things like “I was bad, they took my light bulb and locked me in my room.”

Interview #29

My granddaughter has no shoes again so I have to take money



from my grandson's child benefit cheque to go buy her shoes . . . it has never been clarified to me what are the duties of the foster parents in terms of spending on the children and making sure that they have all the things they need.

Affidavit #6

It's cold out there and they're not even dressing her properly. You know, even the medical situation, my kids haven't seen a regular doctor since they've been in care. I don't even know if they've seen a dentist since they've been in care. These are logical questions for parents . . . that is serious stuff, that's what I think anyways. I want them to be accountable because when my kids were with me they were always seeing the doctor, they were having exercise, my two younger kids they are not even gaining weight. I got scared about that, I always feed them [during visits] because I don't know what else to do, I don't even know if they're eating properly.

Interview #11

Mothers expressed a lot of guilt and anguish about the circumstances under which their children were taken into care and poor treatment their children have since received:

My seven-year-old told me that he was treated badly in the foster home. He told me that he was made to go to bed at 5 p.m. and that if he had an accident he had to wash his clothes in the toilet and keep doing it until the foster parents said it was done properly. This made me feel very guilty, I don't even have words to express how it made me feel.

Affidavit #10

Many mothers are especially impacted because of how closely their children's experiences mirror their own. Yet, they feel powerless to change the situation. In fact, mothers who make complaints reported feeling like they were ignored or accused of having ulterior motives. When one mother complained to the social worker after she discovered that her 14-year-old daughter was wearing bras held together by safety pins, drinking, and being sexually active, she was accused of inventing the allegations in order to have her daughter placed with her. She has since refrained from voicing any of her concerns.⁸³ Other mothers explained that their complaints about their children's care were never really addressed:

The pastor my kids are living with, he is so religious, he is really controlling . . . The kids have been scared to talk out, and they come to us all the time and they beg us to ask about- they

haven't been wanting to live there, they wanted to be moved. It's still going on, for two years, but the Ministry goes in, does their investigation and they always say they don't have a concern.

Interview #5

Outcomes for Kids in Care

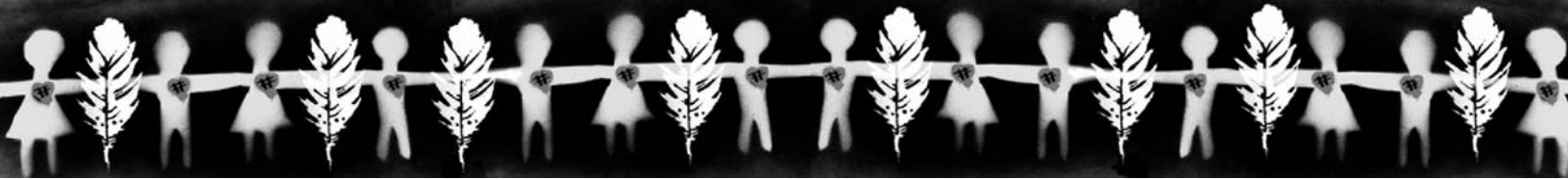
In 1995 Fay Martin, a researcher, conducted a study of outcomes for former youth in care in Toronto who had turned 18 and aged out of the system the previous year. Martin found that youth leaving care in Toronto experience poor outcomes in a number of areas:⁸⁴

- 66 percent were still in high school and none had completed high school
- 17 percent had never worked and 41 percent had worked less than one week
- 38 percent were receiving welfare
- 7 percent were in jail at the time of the interview and 50 percent had been in jail since leaving care
- 90 percent had moved in the previous year
- 50 percent of the girls were parents

Data on educational and health outcomes for youth in care in B.C. suggest similar trends in this province:⁸⁵

- More than half of children in care are not school ready upon entering kindergarten
- An estimated 21 percent of children in care graduate from high school compared with 78 percent of the general population
- Only seven percent of children in care graduate from the academic stream that would allow them to go on to university

In Ontario, the Office of Child and Family Service Advocacy found that there was a pattern emerging where youth are being brought into care and then being criminally charged for their behaviour. The report found that group homes rely heavily on the police to handle day-to-day behavioural issues that would come up in family homes: "Kids have been charged for everything from refusing to read a book or hitting someone with a tea towel."⁸⁶ In British Columbia, 73 percent of individuals involved with the young offender system were also involved in the child protection system, the highest rate in the country.⁸⁷



For parents of young teenagers in care watching them transition from family-based foster care into group homes can be devastating. One father who took part in this project expressed concern about his 13-year-old daughter in care:

The foster home she is in, it's just teenagers. The foster mom works, so basically they skip school and sit at home, one is not even in school and one is always fighting . . . Even though she is skipping school, she is one of the best kids in the foster home, at least she attempts to go to school, the others don't even do that. The 15-year-old is pregnant, and now a lot of our daughter's stuff is going missing, because the other girls they just pick up the stuff.

Interview #3

He is also concerned about the educational plans that are being made for his middle and oldest children, knowing that the choices that are being made about their schooling may have lifelong impacts for them.

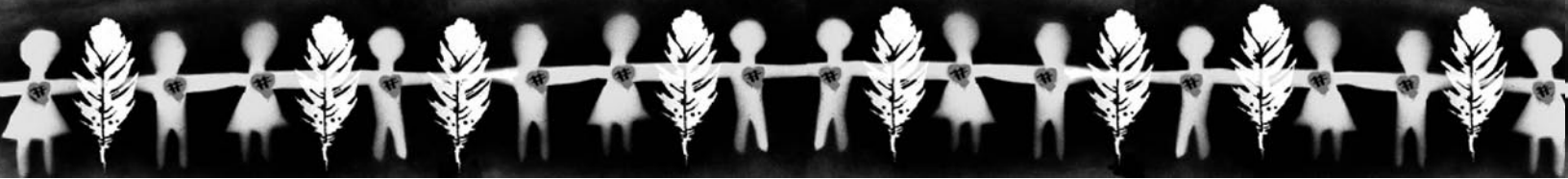
Some parents expressed frustration at the unwillingness of social workers to provide pre-emptive services to prevent negative outcomes they could see unfolding for their children in care:

I've asked for counselling, one-to-one workers, they've never helped with that for my son. I asked to get a social worker to help get him into school 'cause he's not really going to school, they did nothing to help . . . Basically what they told me was if he goes to jail, there's a whole list of really bad things, then we'll help him. I was like, "Are you fricking serious – you want my son to actually kill someone or deal drugs before you'll help him instead of helping him before he does that?" That was the message I got from them.

Interview #14

A major recommendation coming out of the coroner's inquest into the death of Savannah Hall, a three-year-old child who died in foster care in 2001, was that there needs to be better information sharing at the Ministry with respect to allegations about the quality of care in foster homes. Specifically, the inquest recommended the creation and use of a single document that would keep a record of all allegations against a foster home. These recommendations accord with experiences of parents who took part in this project. Many felt that the concerns they raised about their children's care in the foster home were not appropriately addressed by staff at the Ministry.⁸⁸

Steps need to be taken to support the use of kinship care options and to recruit foster parents from the communities most impacted by child apprehensions. Mothers with children in care report that this is not happening. Many parents and grandparents are concerned about the quality of care their children are receiving in foster homes; there has been a failure on the part of the Ministry to adequately address their concerns. Visits with children are not being prioritized, and supervised visits may not be appropriate or useful for many families whose children are in care.



BARRIERS TO REUNIFICATION

In November 2006 there were approximately 9,300 children in care in B.C.⁸⁹ Children in care are divided into two sub-populations: children in continuing care (which means that they are not expected to leave the foster care system until their 19th birthday unless they are adopted),⁹⁰ and those in temporary care. Parents who have children in temporary care are theoretically working with the Ministry to have their children returned. However, the return planning process has been identified as particularly problematic by mothers, service providers and lawyers who practise in this area.

The return of a child to his or her biological parents is a decision that can be made by the court system, but children can also be returned at the discretion of the Ministry at any time. Regardless of the length of an interim custody order or whether that order was made by the courts or by consent, social workers can return a child at any time. A child can even be returned before the first court appearance, as long as the Ministry is satisfied that a less disruptive arrangement could adequately protect the child, the circumstances have changed so that the child no longer needs protection or new information is received that suggests that the child does not in fact need protection.⁹¹

Support services and other interventions can be effective at changing the circumstances in a parent's home to create a safe space to which the child can be returned. Unfortunately, mothers made it clear that the Ministry did not demonstrate a commitment to working quickly at identifying their children's needs, providing necessary supports and returning children to their families once the original protection concerns were resolved.

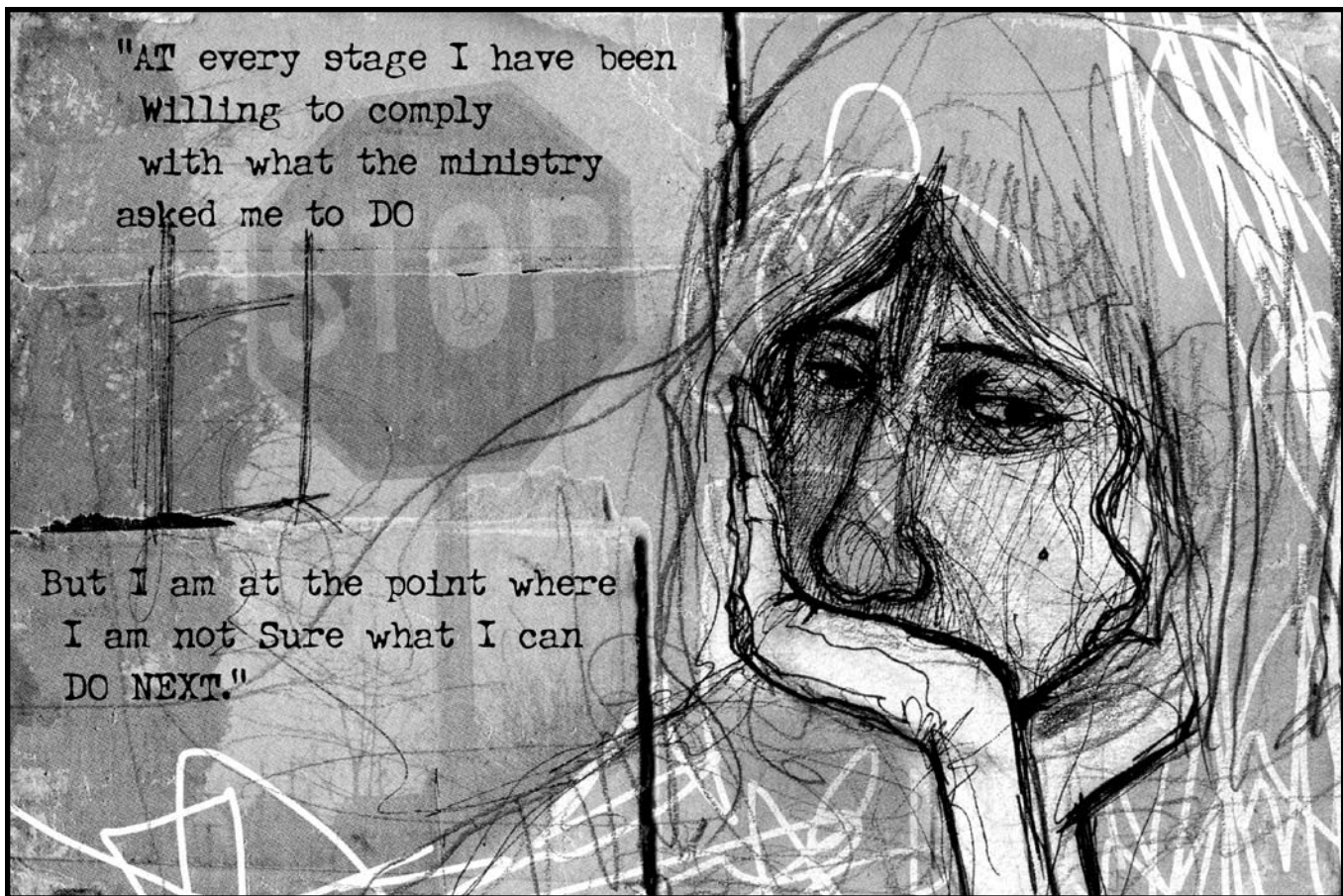
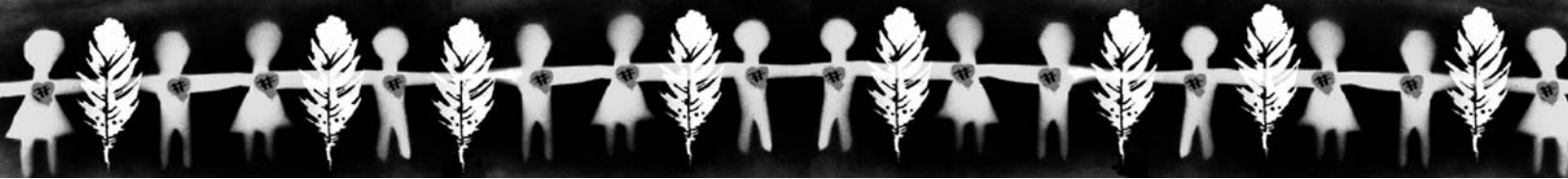
Even though social workers should be working at returning children in temporary care as soon as possible, this may not be a task that social workers have been adequately prepared to do:

There's a lot of talk, in training there's a lot of work on removing kids – when you do it and why – but we never once

*talked about returning kids home . . . not once in the training, and that's such a huge part of our job.*⁹²

Social workers also have large caseloads and therefore must make decisions about how to allocate their time and resources. It appears that much of their time is spent on what the Ministry views as “crisis points” – those situations where a child may be at risk of harm in their family's home and an apprehension may have to happen. Mothers' concerns have to be understood in the context of a Ministry that does not provide the required support to its front-line workers, which would enable them to devote the time necessary to work with families to have their children returned.

Mothers told us that they are given no direction in terms of what is expected of them in order to have their children returned. Others found that even when a list of “expectations” is given, either on the social worker's own initiative or at parents' request, children are not returned when the expectations are fulfilled. At the same time, new concerns that would not have been an appropriate basis for an apprehension are sometimes used to justify keeping children in care. Returning children home is not an aspect of child protection work that is prioritized, resulting in longer stays in care for children. The ambiguity in the Ministry's expectations and the inordinate delays involved in communicating with social workers leads mothers to lose hope that their children will ever come home.



Vague and shifting expectations

Sally, one of the mothers we interviewed, has four girls in temporary foster care. The Ministry has now applied for a Continuing Custody Order. Sally described feeling both frustrated and misled throughout the process of working with the Ministry to have her children returned. Despite her dedication to following through with the requests of her social worker, she still does not have a clear sense of what she can do to respond to their concerns:

... they have never given me anything in writing. They just told me they don't see me and my partner working together, and that they need to see us working together. The supervisor, that's what she says all the time, that she doesn't see my partner really working with me. So they haven't said exactly what they want to see us doing.

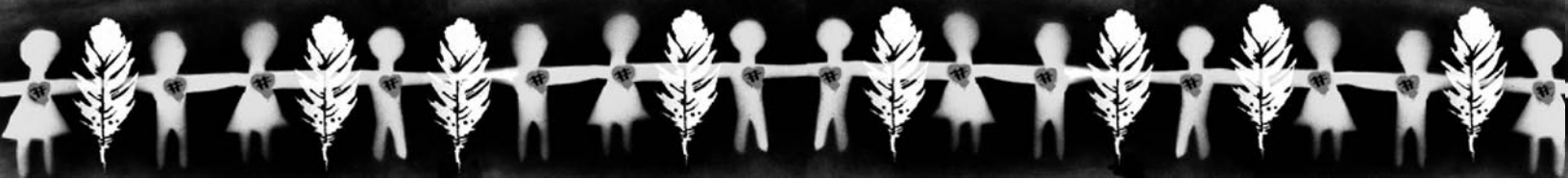
Interview #4

Vague comments are not constructive for parents wanting to address the concerns of the Ministry in a tangible way. Sally

and her family felt like they had no choice but to develop their own plan when it became evident that the Ministry did not have one. The Ministry has not been supportive of their efforts:

I have been asking for my kids to see a counsellor and they haven't. When the kids went into care we were all ready to go to family treatment. We were going to leave within two weeks and then [the social worker] said we couldn't go. It took a long time to get all the applications together. My four girls, my son [now an adult], me and my partner, seven of us were going to go to family treatment and then they said no, we couldn't go. So then I have been asking for family counselling and then I have been asking for the kids to see counsellors, and they haven't allowed us to have family counselling.

We [Sally and her partner] have started going to this Aboriginal healing centre and actually it's been helping us to build our relationship. We do couples' counselling there together, and we have been wanting to get our kids involved. Even the centre asked the Ministry [to allow the kids to attend sessions]. The children have



to be seen there a couple of times each before we can be seen as a family [for counselling]. So it's a process and we haven't gone through that and we have been . . . [waiting] for two years now.

While Sally is determined to keep working at getting her children returned, she feels overwhelmed by inexplicable roadblocks. She cannot get clear direction from the Ministry, and the Ministry has refused to support the plan that she has developed on her own with the help of her community.

Other mothers who have managed to secure a clear list of expectations have not fared much better than Sally. Leanne is a 31-year-old Aboriginal mother of three boys. Her two younger boys live with her. The oldest, now 11 years old, has been in foster care since he was two weeks old but now stays with Leanne on the weekends. Leanne's oldest son was taken because she violated an order stating that her son was to have no contact with his father. Leanne explained that she was young at the time and really did not understand how important it was to avoid all contact, feeling instead that it would harm her son not to know his father. She readily admits the mistake and immediately began working to have him returned. Leanne has never missed a visit in all of these years; yet, she has only recently been permitted overnight visits with her son. Leanne explained that at the time of the apprehension she was given a list of expectations to meet:

Well, I had 18 expectations from the Ministry. Some of those things I did on my own. I went to treatment. I did everything to get my son home . . . I had to go to parenting classes. I had to go to counselling. And I can't even remember all of them, but I did finish all those expectations.

Interview #19

The original child protection concerns are no longer an issue as the baby's father is not in Leanne's life and Leanne has been successfully raising her two other sons. Leanne cannot explain why she has not been able to regain custody of her oldest son. She lost all faith in the Ministry when the social worker did not follow through with what Leanne believed to be an agreed-upon plan:

I wish that they would have given me their word and kept it. That's what they should have done, kept their word with me. Then I would have a little trust, but right now, I have like no trust with the Ministry.

Sandra, a 33-year-old Cree woman, also cannot compre-

hend what she needs to do in order to have her children returned. She is the mother of six children between the ages of three and 16. Her oldest and youngest children live with her. The middle four are in three separate foster homes. Three are in continuing care and one is in temporary care. Her goal is to have all of her children returned, but is working on having the child in temporary care returned first. She explained how important this is to her:

I grew up in care and watched my own father have to fight to have me returned. I now see myself repeating the same pattern that my father went through.

Affidavit #12

Sandra has trouble understanding the protection concern of the Ministry given that two of her children live with her and the other children stay with her over the weekends.

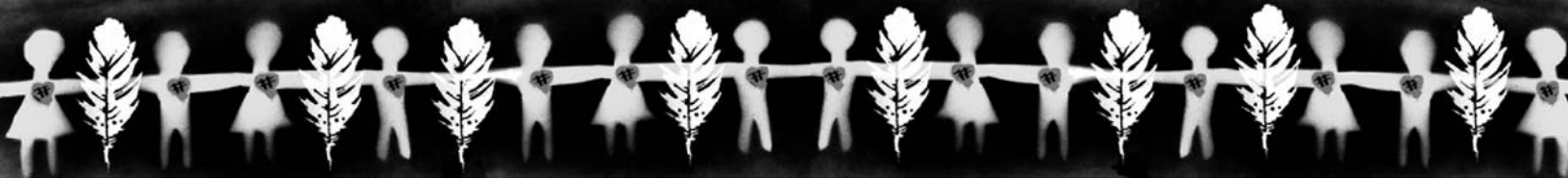
I was told by the social workers at the Ministry that I was doing a really good job and that this did not have to do with my parenting. I don't understand this. If there is no issue with my parenting then why is it that my child cannot be with me? This is especially frustrating since I am already taking care of two of my other children.

Sandra has worked hard to have her children returned. She has a four-bedroom apartment and has found the parenting supports she needs on her own initiative.

I have a very comfortable home that I worked very hard to furnish so that my children would feel safe there. I have done many parenting courses. The facilitators of the courses would ask me for advice because I have gone through a lot in my life and have a lot of advice on parenting. I have also done courses on children with special needs.

She goes on to explain why she is so frustrated:

At every stage I have been willing to comply with what the Ministry asked me to do. But I am at the point where I am not sure what I can do next to demonstrate to the Ministry that I am a good parent. I have tried doing all the steps that they have asked of me and the reasons for continuing to keep my younger child in temporary care are very vague.



Sandra feels that even when a plan has been put firmly in place, Ministry staff do not adhere to it, and there is no way for her to hold them accountable:

At mediation we agreed to specific steps that I needed to continue to do, like parenting programs, counselling and increased time with the children. I did all of these things, and the Ministry is still not willing to return. I have asked the social worker to explain to me exactly what I need to do to have my daughter returned. Their responses are very vague. My biggest fear is that the social workers have no clear plan of care and that I will never know exactly what I need to do.

It is not only Sandra that is affected by this process, but also her children, including the ones living at home:

My children are very confused by the whole situation. They know that I am fighting to have them returned to me but the whole process creates a lot of uncertainty for them. They never know if they are going to be reunited with me and their siblings.

The stories of Sandra, Leanne and Sally illustrate the frustrations that mothers experience when trying to have their children returned. Service providers echoed their concerns:

I am reminding [the Ministry] constantly, this is what we agreed to, this is the plan. Oftentimes we are the only ones doing that, sticking to the plan.

Focus group with service providers

What I have learned, and this comes out of experience, that there has to be someone keeping a record all of the time. Because it was really disheartening to come out of that meeting with one plan, while a group of people is making another plan.

Focus group with service providers

A number of parents have tried to have plans put in writing in order to ensure some measure of accountability; however, social workers do not always agree, and even in cases where they do, the written documents seem to hold little weight:

To the social worker I said, "I want this circle to stop and I want everything in writing. Everything you ask me," I said, "it's going to be logged, and I don't want it to come up again the

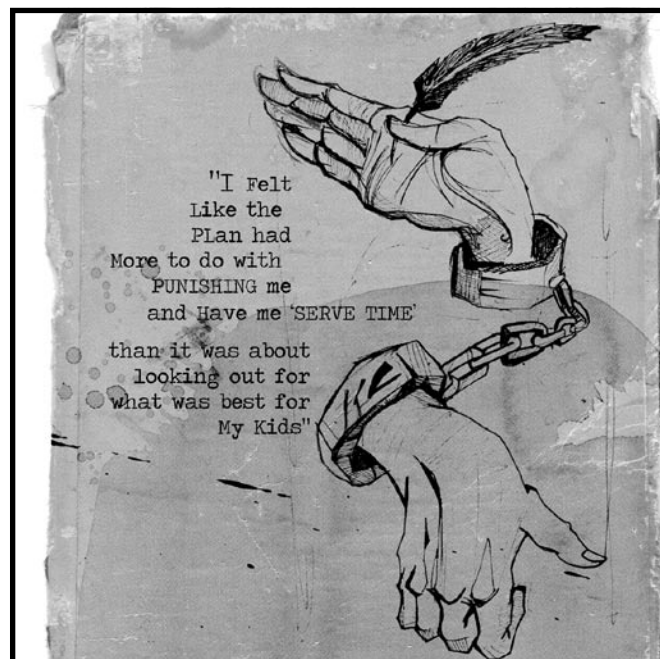
next week after I have accomplished it. I don't want to go back three steps. I want to start straight from here."

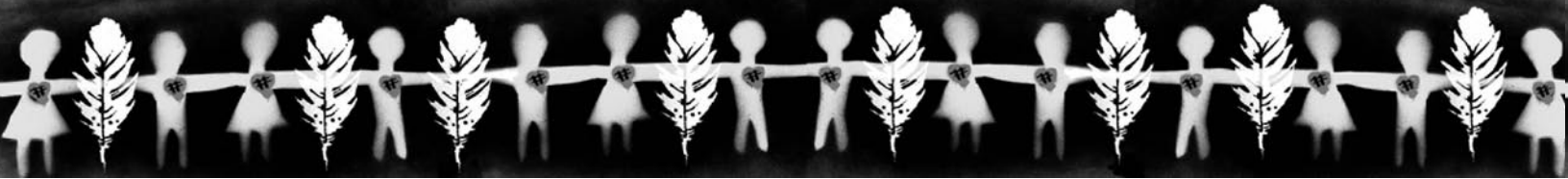
Interview #2

I have now asked for everything to be put in writing. It was my hope that if the expectations were put in writing it would be more difficult for the MCFD to keep changing their mind about exactly what I have to do to have my daughter returned. The social worker has refused to put everything in writing and told me that I should stop telling her how to do her job.

Affidavit #8

In assessing whether a child should be returned to a parent, the social worker is supposed to engage in a forward-looking analysis. Risk is not to be assessed based upon past behaviour, but rather on a consideration of whether the child will be at risk from the present time forward. Consequently, a social worker can never guarantee that a child will be returned if a parent completes a certain list of expectations. By the time the parent fulfills these expectations, a new series of issues may have arisen that, in the Ministry's view, put the child at risk. However, in the cases of many of the mothers we spoke to, the social worker did not clearly set out why it was that the fulfillment of the original set of expectations was no longer sufficient to initiate the return of the child. There was no explanation by





the social worker of the change of circumstances in the parent's life or the child's life that made new expectations necessary, if in fact there had been any change. Another problem is that mothers were misled into believing that there was a guarantee that their children would be returned if they followed through with the list of expectations identified by the social worker. Social workers were not transparent about how decisions relating to return are really made. While Leanne, Sally and Sandra are all examples of mothers who are continuing to work at trying to have their children returned home, many mothers give up hope when there does not seem to be a reliable plan set out for the children's return.

When there is no clear plan to return in place, mothers felt like the decision to keep their children in care was based upon the whim of the social worker and did not have anything to do with the well-being of their child:

I felt like the meetings with the social workers were not helpful. The social worker working with me was very stubborn and she did not listen to the changes I had made. Instead she kept saying that she wanted to give it more time to see how I was progressing. This made me feel even more hopeless. There was no clear plan to have my children returned.

I felt like the plan had more to do with punishing me and having me "serve time" than it was about looking out for what was best for my kids.

Affidavit #4

A drug and alcohol counsellor describes the importance of setting out clear and reliable expectations for parents:

. . . the other thing that really bothers me is that social workers are almost never clear about what their expectations are. There are no parameters around what their expectations are [and] at what point they are going to get rewards. For example, social workers say I have no problem helping you get your children back after treatment. Well, you finish treatment and then they say we want to see you make it in the community to get your child back, OK so they make it four months. Now they are not quite ready to do that . . . so they are always changing the rules and I totally respect the fact that a lot of these women are not ready to take their children back right away, but I would really like to see social workers take the time to develop a time frame when certain things happen like, how long do they want me to make it in the community before they get their children back?

Failure to provide the resources

Mothers told us that even when they were provided with a set of goals they were required to meet, the resources needed to meet these goals were not always forthcoming:

What is odd is that when the Ministry puts these orders on you, you have to become a model parent in six months' time. But you can't do it with no resources, no services, no money. Also, welfare will reduce your rent and then you get evicted so not only do you lose your children, but you lose your home and your mind.

Interview #24

One grandmother described how the Ministry continues to identify minor concerns in her case but has not followed through on providing the resources that they had promised:

When they put my stuff in storage for the winter of 2004 so that the kids would have a place to play, we were supposed to be working on getting beds; it never happened. In February of 2005 I asked about getting a counsellor for my [grand-daughter]. It never happened.

Interview #2

A front-line service provider at an Aboriginal organization describes this problem:

When the child is being apprehended and there are all these expectations, they don't provide the resources or the services so they can work collaboratively together towards returning the child. They don't even provide that; you have to fight for it.

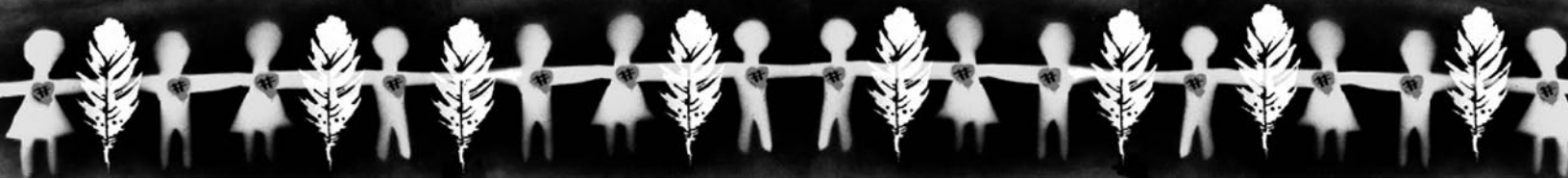
Focus group with service providers

Another service provider expressed her frustration in trying to help parents meet the expectations that had been laid out for them:

My experience is, I call up the social workers, and it's difficult to get hold of them, and then finally when you do touch base, it's like "Okay, this is what you guys want, where can we get that service" and the answer is, "Oh yeah, I'm looking into it" and then it never happens. It's just too frustrating.

Focus group with service providers

In some cases the length of time a child stays in care is



drawn out simply because parents are waiting for a service that the Ministry has recommended:

When [the plan] talks about parenting classes, what parenting classes? . . . You know, we have intensive parenting classes that are so full that we have a three-month waiting period for them.

Focus group with service providers

Family reunification is one of the central goals of B.C.'s child protection system. Yet mothers told us over and over that the resources and services the Ministry deemed as necessary for a return of their children were not available to them. The stated goal of family reunification becomes meaningless if there is not an investment in the resources and services required to support it.

Inappropriate services

Parents whose children have been apprehended, as well as many whose children were at risk of apprehension, often felt overburdened with meetings, groups and programs. In some cases, mothers were directed to attend so many appointments that their therapeutic value became questionable. Many mothers felt, and service providers agreed, that a mother's ability to

keep up with her social worker's imposed schedule, rather than the degree of genuine change in her functioning as a parent, became the measure of success.

Besides juggling visits with children that may be in multiple homes, parents are often expected to participate in parenting classes, drug and alcohol support meetings, individual counselling and meetings with social workers, family preservation workers, lawyers and advocates. Moreover, when a mother misses a meeting or is late, this is sometimes used as evidence that she is not ready to resume her parenting responsibilities or is uncooperative.

Mothers also expressed concern that they have no input into which services and supports they access. A number of mothers suggested that the services to which they were referred did not necessarily address the underlying issues they felt they needed to work on. Sometimes mothers were directed to services that replicated programs they were already taking or had successfully completed. Others attempted to seek out more culturally appropriate services but found that their workers were not open to their suggestions.

One mother offered this advice for social workers wanting to help parents succeed in regaining custody of their children (on page 52):

Rachel's Story

Rachel is an Aboriginal mother of three; her oldest has always lived with family. Her younger two children had also been living with family on her home reserve. Rachel had made all the requisite changes in her life and her two younger children were about to be returned:

All the arrangements had been made for them to be returned to me, and I asked welfare for some money to get proper housing before my children were returned. I told them they could call the social workers and see that the plane ticket was bought, and if it didn't work out they could take money off my cheque, a little bit each month.

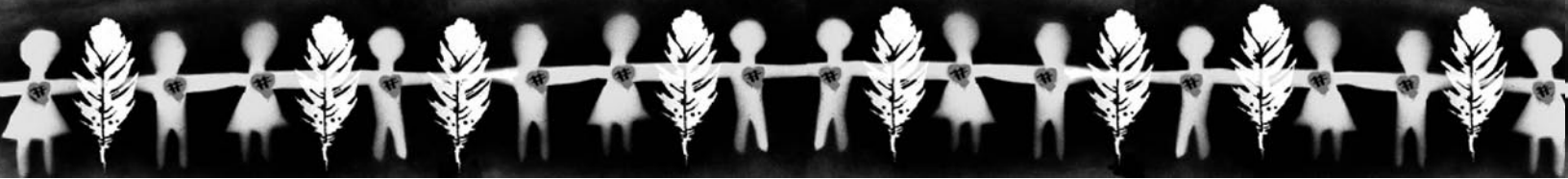
Affidavit #10

No help with housing was available from either the Ministry of Employment and Income Assistance or the Ministry for Children and Family Development. Instead, Rachel was forced to move her children in with a roommate in the Downtown Eastside. No help was provided

in finding a more suitable home once the children were returned. She explains:

I still couldn't find a suitable place, even though I was looking. I had food for them and clothes. The house was kept clean, although we had to share a room . . . I did not want to live where I lived with my children, but I had no other place to go.

Rachel had been separated from her children for a significant period of time, she was on income assistance and expressed to the Ministry that she was having real difficulty finding a suitable place to live on her own. Five months after their return, her children were apprehended from school. The major concerns revolved around the presence of other adults in the house and the overall living situation. Rachel feels that the apprehension could have been avoided if she had been given a little bit of help in arranging an appropriate living situation in the months immediately before and after her children were returned.



[Social workers] have to work with them and help them find ways that work for them. Get to know them instead of referring them to something when they don't really even know what the problem is. [Social workers] should ask them what the problem is.

Interview #17

A social worker explained that he also saw mothers, desperate to prove to their social workers that they are committed to parenting their children, enrolling in countless parenting classes and support groups that did not provide them with new skills. In his view, part of the reason that parents are asked to attend so many services and programs is that social workers, as a result of large caseloads, do not really have the time to sit down with parents and evaluate both their needs and their progress with the services or programs they are attending. At the same time, parents who are unclear about what is expected of them will use their time and energy ineffectively and enroll in a multitude of programs that are not benefiting them or their children.

The impact of the removal also affects the ability of the parent to benefit from the services to which they are being referred. The effect that the apprehension of a child has on the psychological well-being of mothers is not taken into account when social workers develop service plans. Once a removal happens, some mothers find it impossible to focus on the concerns of the Ministry as all of their energy is focused on the experience of having their child removed from their care. This is particularly the case where the Ministry recommends the mother attend counselling to address a particular issue. Often the counselling sessions will be used by the mother to address her most immediate crisis, which is the loss of her children, and consequently the mother cannot work on the issues that may be of concern to the Ministry. The expectation of social workers that these mothers will be able to simply “shut off” their feeling regarding the loss of their children and focus on another issue like childhood abuse demonstrates an overall lack of understanding of the impact of child removal on a parent.

Raising new concerns

Once a child is removed, issues that would not have been grounds for an apprehension are sometimes used to deny the return of a child. A child protection lawyer explained that once his clients were aware of why their children were removed, the

list of things they would have had to have done to avoid the apprehension “pales in comparison to what you need to fix to get them back.” A number of mothers we spoke to who were working toward the return of their children found that the Ministry could always find another concern if they looked hard enough, making reunification seem virtually impossible. A number of grandmothers reported that this was also the case when they tried to gain custody of grandchildren apprehended from their daughters and placed in foster care:

For 19 months I did everything that they asked me to do. They had me do a parental capacity test, I go to the family counselling. I put the youngest one in daycare, we did a parenting program and it is never seen to be enough; they always found an excuse.

Interview #2

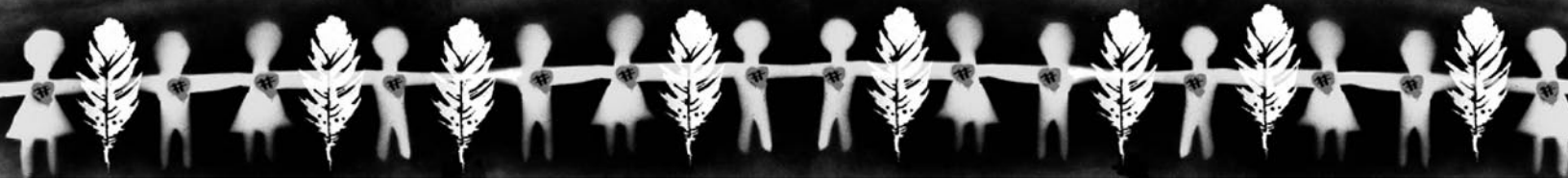
This grandmother feels that, had the children been residing with her from the beginning, there would have been no grounds to remove, but now she feels like she is being scrutinized to an unreasonable degree:

They go like, “Are you performing on alcohol or drugs?” and all this other stuff, and I go, “I’ve been clean and sober 29 years, so what do you want?” “Do you smoke?” I haven’t smoked in seven and a half years, but then “Oh, but we’re not really happy, we are not really sure.” Let me know specifically what you want. In the last three years I have not had a bottle of pop. I don’t eat candy or chocolate bars, I am not promiscuous, so what do they want? What’s not safe in my home? . . . [the social worker] goes “The sleeping arrangement isn’t healthy.” They always sleep in my bed, and we converted a little cot on the end of it to expand it.

Interview #2

Insufficient follow-up services after child’s return

Many mothers continue to be involved with the Ministry after their children have been returned. Children can be returned to parents under a supervision order. These orders allow the Ministry to monitor a family by imposing certain conditions for a period of time. The conditions tend to be directed toward the behaviour of the mother. However, supportive services, such as assistance with housing or counselling to deal with the trauma, anger and resentment that may follow a period of separation, are generally not provided. The interventions and supports that do exist tend to be short-



term. While some mothers are glad to avoid involvement with the Ministry if possible; other mothers recognize that they need supportive services. Some mothers were afraid to ask for services after a return of the children had been agreed upon. These mothers felt that if they told the social worker that they needed respite care or other supports, the Ministry may deem them not ready to care for their children and the return would be delayed.

Differential impact on the Aboriginal community

Some front-line service providers felt that the barriers to getting children home are even greater within the Aboriginal community where it is felt that discrimination can compound the general resistance to returning children:

I think it is a two-tiered system. There is one for Aboriginal communities and there is one for everyone else. The treatment I get even when I am working for an organization and when I say my title, is often very rude and condescending. I can only imagine what parents go through. Parents have told me, "I can't deal with this worker, I can't deal with this team leader. They believe everything I say is not good enough and it will never be good enough."

Focus group with service providers

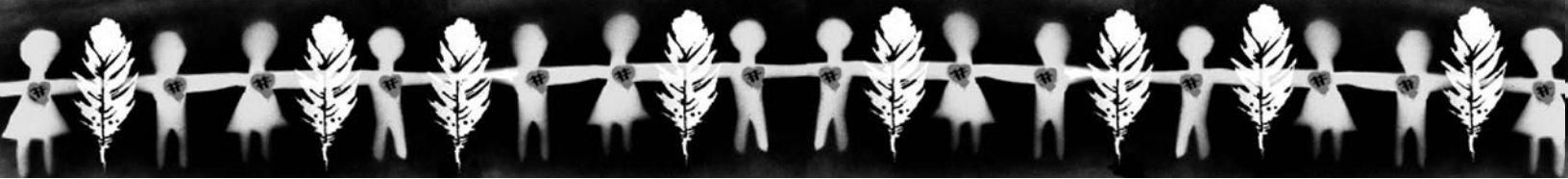
Overall, mothers felt that reuniting families was not a priority for the Ministry. Feelings of confusion, hopelessness and frustration were common. When parents demonstrate a commitment to making changes in their lives to address protection concerns, it is imperative that this commitment be met with support and resources in order to facilitate successful family reunification as quickly as possible.

This service provider contrasts this with what she sees and what her clients perceive in the non-Aboriginal community:

You see other parents in the community who are non-Aboriginal, you know, their situation is worse. There are neglect issues, health issues, safety issues and the workers have gone in there and the kids get to stay with mom and they get all these kinds of services to get mom and kids to stay together. And yet [Aboriginal] mothers and grandmothers have to jump hurdles to get any kind of simple assistance.

For this service provider, it comes down to the fact that many decision makers within the child protection system do not value Aboriginal ways of life and believe that it is in the best interest of Aboriginal children to stay in care:

It is just the attitude, the way they think they can treat us as Aboriginal people. It's horrible, it's racist, it's discriminatory and it's judgmental. They think it's a better way of life where they come from. What they think is best for a child; it goes against everything that the Aboriginal people that I work with stand for.



IMPACTS OF APPREHENSION

Feelings of shame, powerlessness, sadness and loss dominated our discussions with mothers. For some parents the emotional toll of losing their children led them to engage in self-destructive behaviour. The unaddressed emotional consequences of child apprehension can be a barrier to successful family reunification.

Guilt and shame

Despite the very adverse conditions under which they are raising children, mothers who have been involved with the Ministry overwhelmingly experience profound feelings of guilt and shame about their performance as parents:

Obviously I've done a lot of things wrong, and since my son, I just can't forgive myself for all of those things . . . and now basically I just want to hide because I'm really ashamed.

Interview #16

Some mothers felt as though the Ministry was initially justified in removing their children because of something they had done. However, even in cases where mothers felt that the apprehension of their child was warranted, they expressed a great deal of guilt at how their case unfolded and often thought of ways they could have handled things differently.

Many mothers who come into contact with the Ministry are already coping with feelings of shame and low self worth because of societal prejudices against Aboriginal people and people living in poverty:

. . . There is still a lot of that shame about being Aboriginal and being on welfare or low-income.

Interview #3 with social worker

Dealing with those prejudices on an ongoing basis often affects how women see themselves and becoming involved with the Ministry as parents only intensifies negative self-perception. The emotional impacts of a child protection investigation or apprehension tend to negatively affect other areas of a mother's life, including those from which she previously gained self-esteem:

I was continually getting positive reinforcements at my work and told that I was doing an awesome job. After my kids were taken, I was told that my attitude toward work deteriorated.

Affidavit #4

In the end, internalized feelings of guilt and shame can come to shape a mother's entire sense of self:

My kids, they are great kids so I know I did something good for my children. But, it makes me feel like less of a person having [the Ministry] involved in my life.

Interview #11

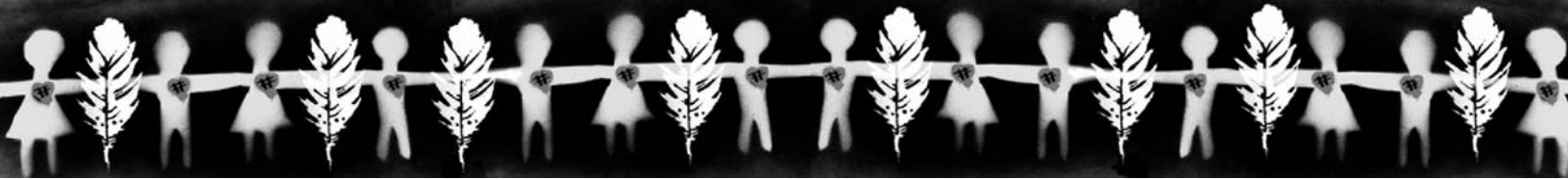
Necessarily, these feelings of guilt, shame and sadness will impact the extent to which a mother is able to work with her social worker and navigate the court system in order to have her children returned. Some mothers reported that for a long time after their children were removed, they could not even bear to face their children and did not arrange visits. Not visiting their children only intensified their feelings of guilt and shame.

Powerlessness

Mothers expressed that losing their children, even temporarily, was an overwhelming and often debilitating experience:

They were removed for four months; it was the worst experience for me. It felt like someone took away half of my liver and expected me to live.

Affidavit #4



Once children are taken into care, mothers felt that they were up against a scary and overwhelming system:

I feel very powerless. I do not have control over the process and I feel like the Ministry has a great deal of control over me.

Affidavit #12

In many cases mothers could not face trying to manoeuvre through the system and appear to have “given up” on their children:

I didn't want it to happen, but I didn't fight. I didn't fight the Ministry on it because I felt it was fate. I remember crying for them when they were taking them away, but something made me not fight.

Interview #10

I just gave up. I didn't bother no more because I knew I wasn't going to get him back . . . I used to be real quiet; I never used to speak up for myself.

Interview #19

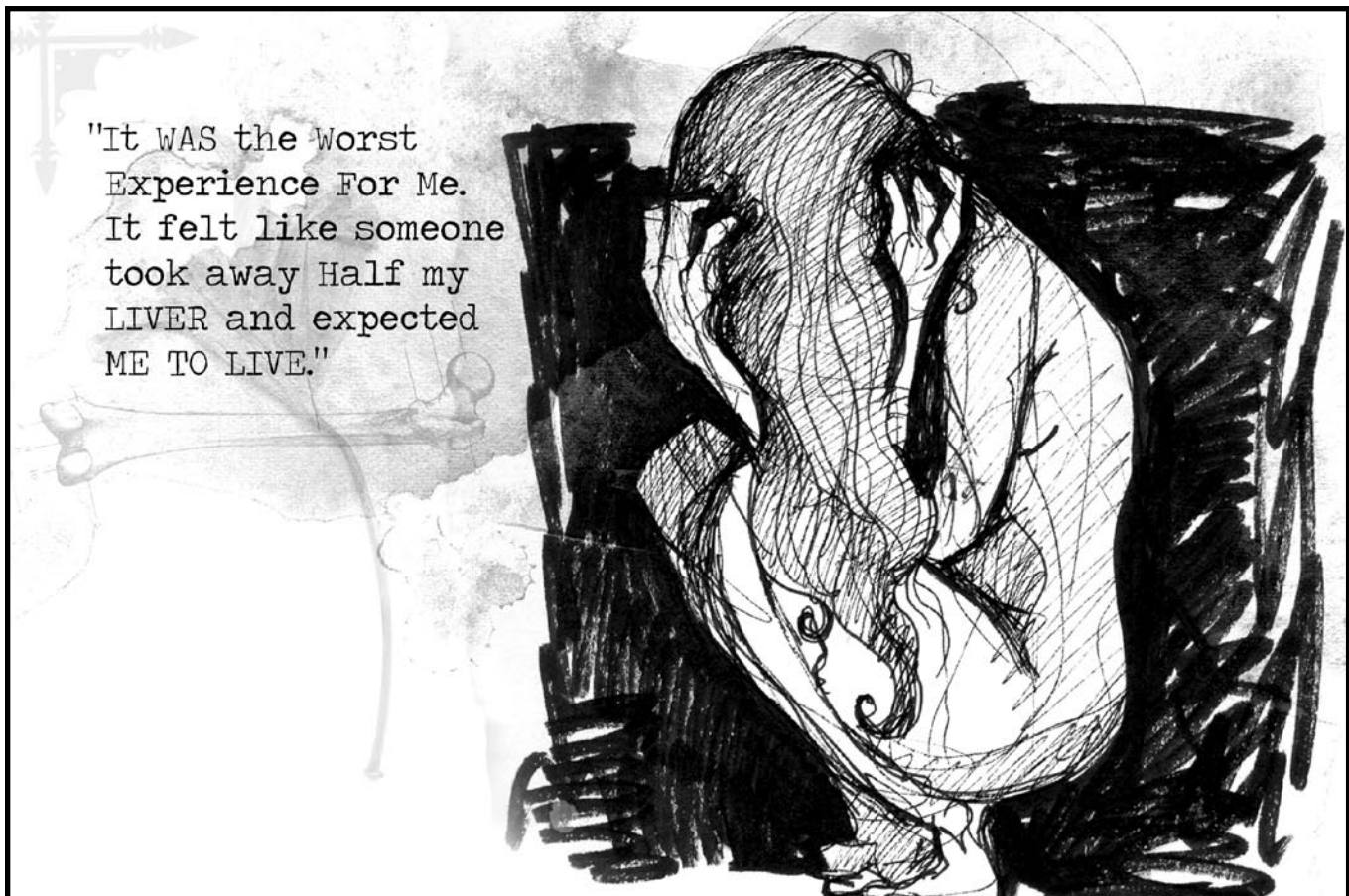
While “giving up” is often interpreted as further evidence that the mother is not willing or able to care for the child, in reality the fact that these women resign themselves to the apprehension of their children is, in part, a result of their history with the child protection system and other government institutions. In other cases, women have internalized the belief that they are bad mothers and that their children would be better off without them:

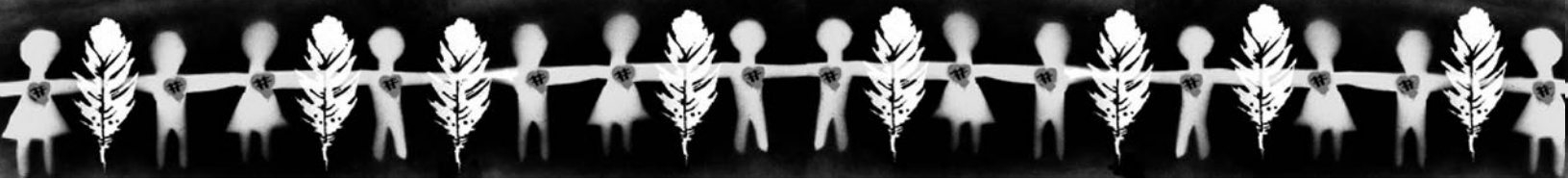
I let him go because they were so adamant to get him away because they thought I was a bad dude, you know. I just let it be because I didn't want him like caught up in the fighting, and basically I just went limp.

Interview #16

While many parents continue to work through the process, maintaining their resolve is an ongoing challenge:

Sometimes we just feel so hopeless that we feel like just going





back to Alberta and starting over, but we just can't let her go. We love her too much.

Affidavit #1

Self-destruction

For some women, the apprehension of their children and the feeling of hopelessness that ensued led them to engage in an escalating pattern of self-destructive behaviour:

I felt like the Ministry kept telling my daughter over and over that she would not be able to parent and now she is on the streets. I feel like instead of support, the social workers are pushing young mothers into a negative cycle.

Affidavit #6

There are other women that I see who were doing really well and then the Ministry takes their kids and they go down a really bad spiral.

Affidavit #4

Some mothers clung to the destructive relationships with men that their social workers wanted them to end because they felt so worthless and alone. A number of women reported that they

either resumed or augmented their drug and alcohol consumption after the apprehension of their child in order to cope with the deep sadness and overwhelming sense of shame that they felt:

My son was ten hours old and they came in right away and took him . . . and it was like okay, I've got to use now, I've got to stop the pain, so that's what I was doing.

Interview #15

When I wasn't using, I felt just overwhelming guilt and shame and so that would just make me go out and get more drugs.

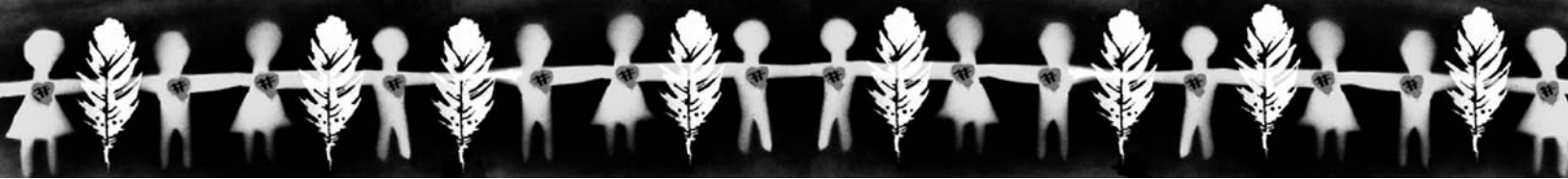
Interview #25

One drug and alcohol counsellor shared a particularly poignant story about the self-destructive path some women go down after losing their children and their hope:

I had one client I am positive committed suicide. She was found overdosed in a parking lot. One of the other staff saw this and told me "your client was found in a parking lot overdosed" and I said "no, I bet it was a suicide." Her child was taken. She did overdose, but it was a very public statement . . . as far as I'm concerned, it was a suicide.

Interview with service provider

The act of removing a child from his or her parent has a grave impact on the well-being of mothers and children. Dealing with the emotional fallout from an apprehension affects a parent's ability to work on the issues that may need to be resolved prior to a child being returned home. This is not always considered when developing a safety plan for the child or a reunification plan for the family. Relatively minor issues that are negatively affecting parenting will often intensify or multiply once a child is removed, affecting the ability of the parent to address the original protection concern. Accordingly, it is vital that apprehensions only occur in situations where there is genuinely no other viable alternative to keep the child safe. The Ministry must ensure that services are put in place to help parents and children deal both with the original child protection concerns and the emotional consequences of the apprehension.



RECOMMENDATIONS FOR PART TWO: A BROKEN SYSTEM

Coming under the Scrutiny of the Ministry

- In order to ensure that parents seek out the help they need, access to support services that are available only through Ministry of Children and Family Development (“Ministry”) should be available to all parents. Access to services should not be dependent on a child being labelled “at risk.”
- Section 14 of the *Child, Family and Community Service Act* places a duty on everyone who has a reason to believe that a child is in need of protection to promptly report to the Ministry. The broad and unclear scope of this duty combined with the potential liability of not reporting creates a climate of fear for parents but also for their support people. While members of the community can report any concerns to the Ministry, the duty to report should only be engaged in cases of immediate risk to the child.

Apprehensions as the Last Resort?

- Caseloads of social workers should be reduced to allow them the time to meaningfully explore support services and other alternatives to removal with parents. Assessing alternatives to an apprehension should be strongly encouraged and given priority. Social workers should be trained to be knowledgeable and up-to-date on services and programs that are available for parents.
- Social workers at the Ministry should be in a position to advise policymakers in other ministries on the resources required to better keep families together. Funds should be allocated to creating and supporting services, programs and effective alternatives to apprehension.

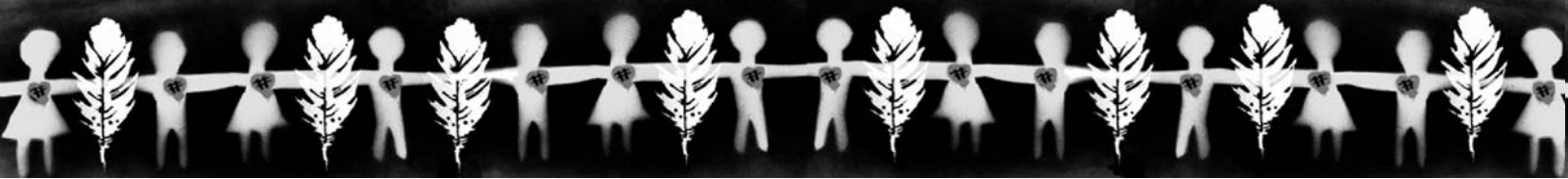
Lack of Transparency

- In addition to legal aid funded lawyers, paid advocates should be available throughout the process to ensure that families are provided with the information they need, including a clear understanding of their rights.

- At the investigation stage, it is important that the following steps be taken to avoid confusion for the parent:
 - Ensure that parents understand the investigative role of the social worker.
 - Inform parents of their ability to access legal counsel through legal aid during the investigation stage.
 - Provide parents with information on advocacy services.
 - Hold a debriefing with parents after an investigation is complete, regardless of the outcome, and ensure that the findings of the investigation are made available to parents in writing.
- When a child has been apprehended, parents need to be provided with the following information as soon as is reasonably practical:
 - the grounds for the removal;
 - how to obtain legal assistance;
 - what to expect during the court process;
 - the immediate plan of care for the child;
 - when they can expect to see or speak to their child; and
 - what steps they can take to have their child returned.

Problems with Placements and Visits

- Where supported by the parent, placement with extended family, through “kinship care” agreements, should be the first possibility that is explored.
- Family members who are caring for children under “kinship care” agreements should be compensated at the same level as foster parents.
- Parents and other family members should be provided with timely and complete information related to placements and visits.
- Regular visits with family members should be given the highest priority for children in temporary care.
- If visits are to be supervised, it is expected that an appropriate supervisor and comfortable space for visits be made readily available.
- Travel costs should not be a barrier to regular visits if children are placed far from their parents.



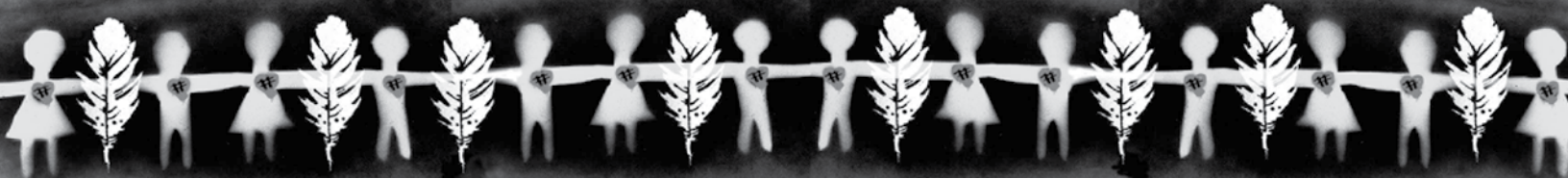
- Where siblings are separated in foster care, necessary steps should be taken to ensure their contact is regularly maintained.
- The Ministry, as the legal guardian of children and youth in care, must make it a priority to routinely evaluate their progress, hear and address their concerns; and ensure that all of their needs are being met in care.
- Any concerns about quality of care or the presence of abuse and neglect in foster homes must be independently reviewed by social workers not involved in the management of the foster home or the care of children placed within that home.
- The Ministry should create and use a single report that would keep a record of all complaints against a foster parent.
- The Ministry should encourage the development of shared parenting foster care models.

Barriers to Reunification

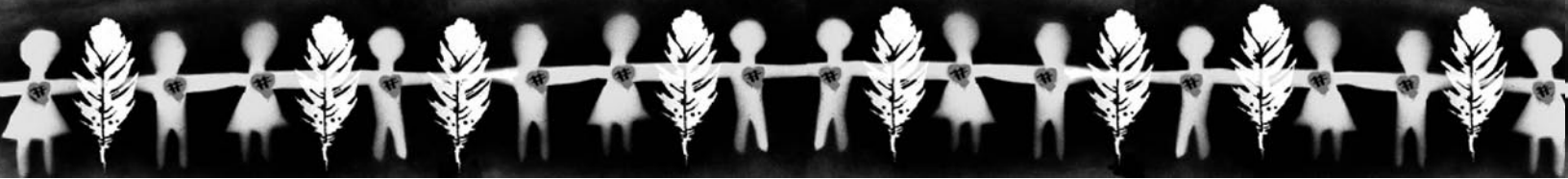
- Social workers should express their concerns to parents in clear and concrete terms. From the outset, parents need

to be informed of what they can do to have their children returned and any factors that might delay the return process.

- In order to facilitate a workable plan for return, social workers need to be aware of services available in the community. Greater familiarity with services would allow social workers to better evaluate a program for appropriateness for a given client.
- The Ministry must monitor the services available in the community and the wait times for those services in order to ensure that funding keeps pace with demand.
- Funding must be made available to support the development of culturally appropriate services and resources for Aboriginal families.
- Concerns that would not be grounds for an apprehension should not prevent the return of a child in temporary care to the family home.



PART ONE – THE CONTEXT
PART TWO – A BROKEN SYSTEM
PART THREE – THE DECISION MAKERS
PART FOUR – VULNERABLE COMMUNITIES
PART FIVE – A VIOLATION OF PRINCIPLES



THE ROLE OF THE SOCIAL WORKER

The social worker is the face of the Ministry of Children and Family Development (“Ministry”). It is the social worker, also known as the child protection worker, with whom the parent mainly interacts while navigating the child protection system. Consequently, it comes as no surprise that parents who feel the child welfare system has failed them and their families target their frustration at social workers.

Unlike other government bureaucrats, child protection workers have a wide mandate and are responsible for a variety of decisions and tasks including:

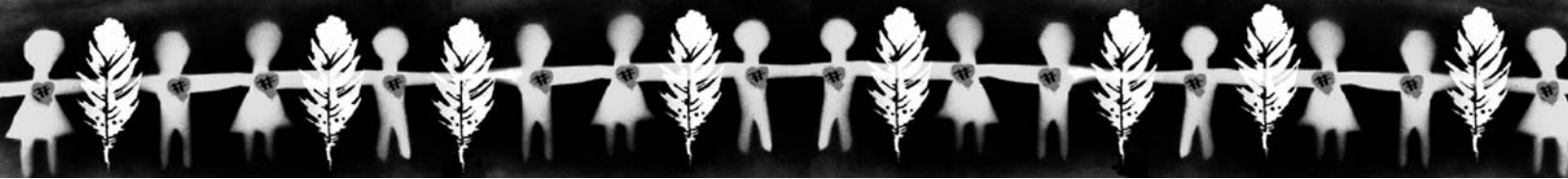
- responding to calls alleging child protection concerns;
- investigating whether there is a child protection concern;
- conducting risk assessments;
- deciding if and when to remove a child;
- deciding what supports families need to stay together;
- identifying issues that parents need to work on in order to have children returned;
- creating a plan of care for children in care;
- liaising with community agencies and programs;
- advocating on behalf of parents and children for services;
- arranging a visitation schedule for parents;
- recommending the terms of a supervision order;
- deciding when to return a child home; and
- deciding whether access should be supervised or unsupervised.

Social workers receive their authority to perform these tasks under the *Child, Family, and Community Service Act* (“CFCSA”). Under s. 91 of the Act, the Minister can designate one or more individuals as the Director of Child Protection. The Act further provides in s. 92 that the Director can delegate “powers, duties, or functions under the Act” to any person or class of persons. Based on this provision, the Director delegates certain powers to child protection workers. In order to assume this authority, child protection workers must write and pass standardized exams. Not all child protection workers are

delegated with the same authority – some workers have partial authority, while others are fully delegated.

Social workers do not make all of their decisions in isolation – the social worker will consult their team leader, and in some cases their area manager, before making a decision. If a parent opposes a removal or the continued placement of their child in care, judges at the Provincial Court are also charged with reviewing decisions related to the removal of the child.

Social workers are normally divided into four streams: Intake and Investigations, Family Services, Guardianship and Adoption Services, and Resources and therefore a single social worker may not be responsible for performing all of the above tasks on a single file. For example, if there is a new call alleging a concern about a child, the intake worker will typically gather the information and decide whether an investigation is required. If there is an investigation and a decision is made to provide ongoing services, then a family service file is opened. Once this file is opened, any new concerns about the child are normally investigated by the same family service social worker and are not directed back to the intake worker. Family service social workers are also responsible for looking after guardianship services for children who are in care under Special Needs Agreements, Voluntary Care Agreements, Removals, Interim Orders and Temporary Custody Orders. Children who are in care under Continuing Custody Orders are served by social workers in the Guardianship and Adoption Teams. The Resources Teams are charged with recruiting, approving and supporting foster placements. The findings in this chapter are principally related to social workers working in the Intake and Family Services



teams,⁹³ although parents rarely have a clear sense of the distinction among their various social workers' roles.

Dual role of the social worker

Social workers are put in the position of being both a support person for the parent and an investigator, gathering information about the parent to determine if their children are at risk in their care. Combining both of these roles is problematic. In many cases, the same social worker who made the decision to remove the child also works with the mother to have the child returned.⁹⁴

A grandmother discussed the failure of the social worker to be supportive of her daughter. She feels that by focusing on the negative aspects of her daughter's life the social worker contributed to keeping her in a cycle, instead of pulling her out of it:

The social worker told my daughter that you are in a pattern and you are stuck there. I was so frustrated by this statement. I told the social worker at the case conference that if my daughter is stuck in a pattern then you should be helping her and supporting her, not taking her kid away. I felt like the Ministry kept telling my daughter over and over that she would not be able to parent and now she is on the streets. It feels like instead of support, the social workers are pushing young mothers into a negative cycle.

Affidavit #6

Mothers did not view their social worker as a support person because of their contradictory role as an investigator. In order to be a support person, mothers felt that they had to be able to trust the social worker. This was not possible for most parents given that they knew the social worker had the power to remove or not return their child. This also meant that mothers were reluctant to disclose to their social workers when they needed help.

. . . they tried to ask if I needed a big brother for my nine-year-old. I said no I don't. I said, "I have my brothers to take them out and talk to them." Why do I need a big brother from them? It doesn't make sense. I know that it's just that they want to know stuff about me and I told them I don't want your help.

Interview #18

One mother compared her feelings about seeking help from social workers to the way she feels about asking for help from police officers:

As soon as they got a kid, [the Ministry] may say you can have him back in such time but they will find things on the way. It makes it impossible you know because either the kid is doing something or you are doing something or you are both doing something. It's always one of the three and so I would never ask the Ministry [for help] and I would never ask the cops for any help, you know. I feel they would be throwing it back in my face more than it would be helpful.

Interview #28

. . . [with child protection] I can't get any help. The only people I'm supposed to get help from are the same people who are investigating me.

Interview #18

Mothers who had voluntarily approached the Ministry for assistance felt betrayed when their children were removed because of the information that they provided:

I don't trust social workers. The reason that the Ministry had concerns about my ex-boyfriend is because I voluntarily went to them for help when I recognized that there may be a problem. I now do not feel comfortable talking to the social workers about anything because of the way they handled my situation.

Affidavit #4

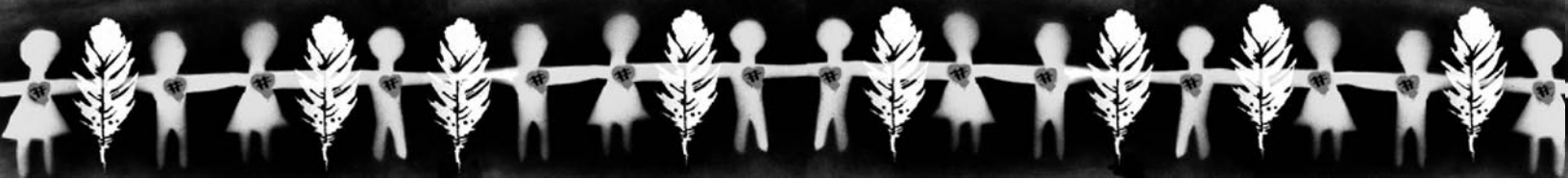
When mothers talked about good experiences they had with social workers, they invariably mentioned the social worker's ability to listen without judging them or using the information they provided against them:

I have had a few good social workers. I felt that they were good social workers because I could talk to them and be honest with them. I didn't feel when I was talking to them that they were going to use everything I said to them against me.

Affidavit #4

A child protection lawyer who represents parents in Ontario explained how he has seen the conflict between the social worker's competing roles impact parents:

Clients feel so betrayed when they develop some sort of trusting relationship with the social worker and they've actually got these names in Ontario, there's parent's support worker, the family support worker, and the child support worker . . . and then you get an affidavit which details all this . . . There's a feeling



that there's a spy in my camp going back and reporting this and reporting that . . . there are many social workers who do a great job, a difficult job but they get put in difficult positions . . . because you have to report to child protection.

Focus group with lawyers

Another lawyer explained that the solution may lie in having social workers be very upfront and transparent about their role:

There's a huge amount of duplicity in that respect . . . the reason that the Ministry exists, the reason that you have a job, is that when parents fail to protect their children – your job is to protect the children – sometimes from the parents. In order to be an effective advocate, you need to be transparent, you need to tell the parent right off, “I have a relationship with you and the only reason I have a relationship with you is because I care about your kid. I will check on you from time to time, and anytime I think you're doing something, pushing me in the direction of taking the kid out of the home . . . [I will warn you].”

Focus group with lawyers

A mother identified that there was a missing link in the way the child protection system operates – parents do not have the information or support they needed when there is either a threat of removal or when they are trying to have their children returned. She suggested the creation of a new position called “liaison officer” to fill this gap:

. . . I just think that someone could meet up with you – I don't know what you could call them – a liaison officer or something. Someone who works for the Ministry could maybe be on your side and go look – this is what is going on – this is what you need to do to prove to them about your kids or this is the status of your file.

Interview #27

A child protection lawyer echoed her sentiments, calling this missing link a “coach”:

There's always a breakdown in trust between the social worker and the parent; there's always a breakdown in communication and the lawyer doesn't have the time and the parent needs someone to coach them through the system . . . and I don't know how you do it, but they need somebody that won't turn against them. They need a coach.

Focus group with lawyers

Sheway, a community organization in the Downtown Eastside that serves women with substance use issues who are pregnant or have infants under 18 months of age, is an example of the use of social workers in a supportive role. Sheway employs social workers funded by the Ministry; however, these social workers are not delegated to apprehend children. The social workers are able to work directly with mothers as support people and help guide them through the process. Some well-trained advocates are able to play a similar role; however, parents, lawyers and service providers all complained that there are not enough of these types of support people to go around.

Multiple social workers

The difficulty in retaining social workers and the frequency of sick leaves are major problems for the Ministry. The B.C. General Employees Union (BCGEU), the union representing the Ministry's social workers, noted the following in their submission to the Hughes B.C. Children and Youth Review in January 2006:

Staff turnover and recruitment and retention remain significant issues in many areas of the province especially in the north and interior.

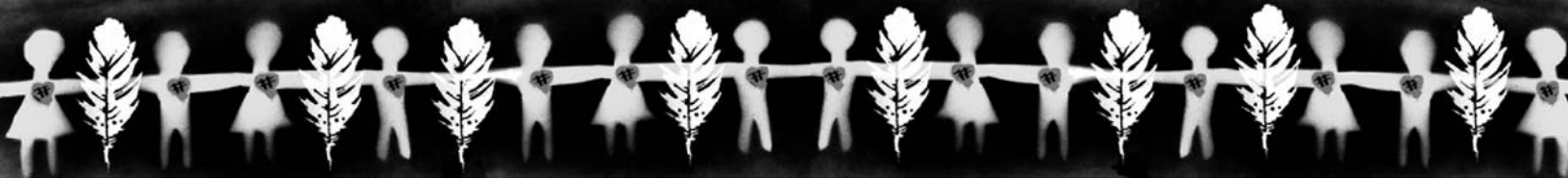
Because of the demands of the job and lack of support that social workers face daily, sick leave use is a reality. When vacancies occur, there is often no coverage for caseloads. Files are distributed between existing social workers. This then becomes a vicious cycle as more social workers become overworked and unable to keep up with their legislated responsibilities.⁹⁵

The B.C. Association of Social Workers also notes these realities in their submissions to the Hughes Review:

Cutbacks in funded social work positions have contributed to a decrease of staff morale and an abnormally high amount of time off due to illness.⁹⁶

In her listening tour across the province in 2005 former Child and Youth Officer for British Columbia, Jane Morley, talked to front-line workers about their concerns with the child protection process. These concerns echoed the concerns raised by BCGEU and the B.C. Association of Social Workers:

The lack of adequate human resources results in high stress for those who are left, which in turn leads to increased illness and sick leaves; with no replacements available, even more stress is created.⁹⁷



For parents, one of the results of high staff turnover rates and frequent sick leaves is having to work with multiple social workers throughout the child protection process. This, in turn, creates uncertainty about the future of their file, frustration over having to tell their story over again, and difficulty in re-establishing a trusting relationship with a new social worker:

In a way, I would be relieved and in a way it would be like how is this one going to be? Majority of them I didn't pretty much get along with. Some of them I did and I liked that when I ran into social workers like that.

Interview #12

That was another thing going from one worker to another and then having to tell my story all over again and that would get frustrating.

Interview #13

I have had many different social workers. They are always changing. It makes it very difficult because once you developed a trusting relationship with one social worker, another social worker comes and you have to start from the beginning again.

Affidavit #12

A child protection lawyer who represents parents discussed the significance that a change of social worker can have on a case:

Sometimes, social worker changes are beautiful and they open up the case and it turns right around. It's so crucial. The converse of that is when you've got a social worker working well with a family, and then you get them out of a job, and you get a new one in, and all of a sudden it's going straight to CCO (Continuing Custody Order).

Some mothers had to work with multiple social workers at the same time because their children were placed in different regions.

I now have three social workers because my children are in different regions. I wish that I could only have one social worker for all of my children. It is hard for me to manage working with three different social workers.

Affidavit #12

A social worker explained that these sorts of situations occur because social workers' case files are attached to the

children not the parents.⁹⁸ A different system that limited the number of social workers parents had to work with would facilitate reunification and better support continued contact among siblings placed in separate homes.

Failing to respond

A common complaint of mothers and service providers was that social workers were not getting back to them and responding to their requests or concerns in a timely manner. Mothers talked about the delay in their cases caused by social workers who were unresponsive. Many mothers acknowledged that social workers had high caseloads and could not spend very much time on their file.

It's just like they are really disorganized like they are not really on the ball of telling you what's going on . . . I don't know who the social worker is, the new one I am trying to contact her, going to the office and meet her. And she is so busy, she keeps telling well you have to phone to make appointment with her. I have been leaving her messages . . . I am just sitting there leaving a bunch of messages with everybody and wanting something to roll here because you know I want my kids all in my house, three of them.

Interview #11

The social worker routinely will not return calls. Whenever I call, I make sure to tell her the number of times I have called, the date and the time. My calls are still not returned. The supervisor never gets back to me. She has cancelled two meetings with me in the last month.

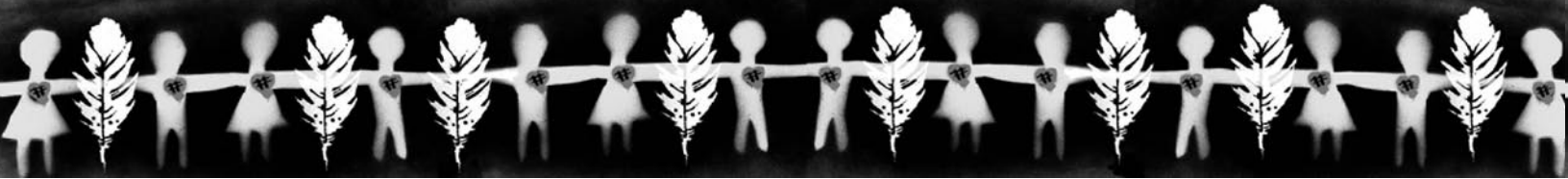
Affidavit #8

Service providers echoed the sentiments of parents and expressed frustration at the lack of response from social workers:

I've seen a lot of cases where social workers either ignore clients, you know we will make phone calls, send faxes but we don't get responses to things.

Interview with drug and alcohol counsellor

Mothers also told us that the social workers did not have the time to really listen to them in order to respond to their concerns and develop an appropriate plan for services. The lack of response leads to cases getting stuck – the children remain in care and there is no action on the file. This inaction is particularly



frustrating in cases where parents are making their best efforts to connect with the social worker and to communicate the steps that they have been taking to address the Ministry’s concerns:

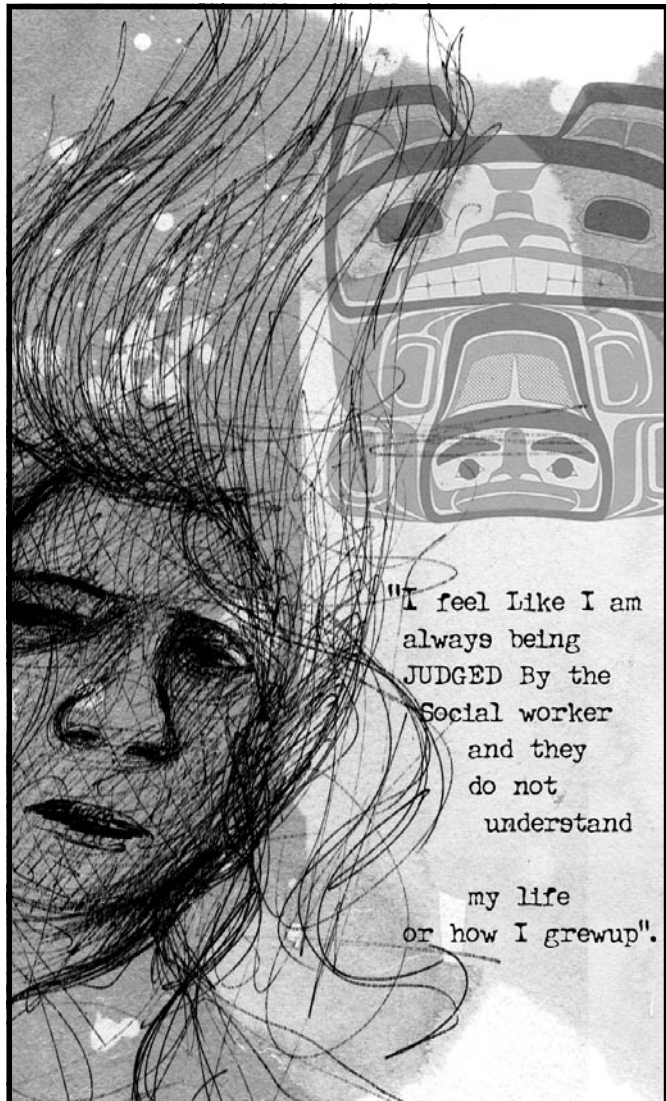
I feel like social workers do not listen to me when I explain things to them. I feel like they are not interested in hearing the full story. I feel that the communication with them is either non-existent or confusing. My daughter and I have tried to explain what services she needs but I do not feel like the social workers are actually interested in finding out which services you actually require. The whole experience has made me feel helpless. I know that I would be able to prove to them that my daughter and I are not who they say we are if they would take the time to listen to us.

Affidavit #2

One mother describes the frustration of having to wait six and half months after a removal for a home visit by the social worker.

It was six and a half months after my daughter had been apprehended that the social worker from MCFD came to my home to do a home visit. The visit went very well and I felt that the social worker was impressed by my living arrangements. It was after this visit that the social worker offered services and resources to assist me. I have now been referred to the program “project parent.” I would have preferred that they had come to do the home visit right after the removal and not six and a half months later.

Affidavit #8



Any delays in responding to parents and in making decisions once a child has been removed can have serious consequences in terms of the likelihood of the return of the child. During a period of delay, many parents lose hope that there is indeed a plan to return their children.

Social workers are put in a position where they have to make difficult decisions about how to allocate their limited time and resources. Their focus has to be on the next “crisis.” This means that social workers will tend to prioritize their time by focusing on the next removal or potential removal instead of working with parents to have their children returned. Children remaining in foster care are not considered in “crisis” and so they do not seem to be the priority in a Ministry that is understaffed and has very few resources. This means that the challenging work of supporting the return of children to their parents is overlooked.

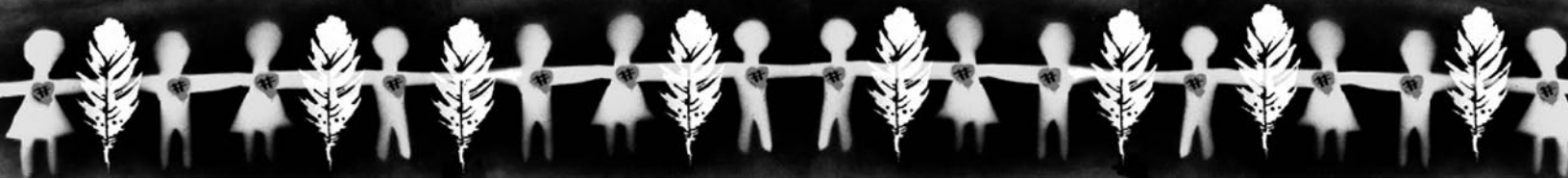
A child protection lawyer who represents parents describes the difficult position social workers are in:

Social workers are so poorly supported. I commiserate with them all the time – you’ve got a 35-case load and you’ve got to spend 45 minutes on paperwork for each case per week.

Focus group with lawyers

It is incredibly difficult for social workers to fulfill their requirements under the practice standards and actually see parents and children on a regular basis and work with them at keeping their families together. A social worker describes this untenable situation:

... like I wanted to be a social worker to help people ... when you have a caseload of 25–35 how can you really be an advo-



cate to somebody that you see, a mom that you see once every six months because she's dealing with her own issues, or you have a child that is running away all of the time . . . So you have a practice standard that says you're supposed to see a child, you know every 30 days. Well there are only 20 work days a month so already I'm set up for failure and if I'm dealing with half a dozen children or families on a regular basis that takes up 75 percent of my work . . . what happens to the rest of them, right? . . .

Interview #3 with social worker

A service provider commended the work of one social worker who went above and beyond and put a great deal of resources into ensuring that the children could be returned to their family:

It was absolutely remarkable what the social worker did. It was an Aboriginal family, there were three boys involved, I have never seen a social worker work so hard, literally I had to thank her and send her a card, she was astounding. We spent four hours in mediation and she did everything possible and bent over backwards to make sure that those boys got to go home with the parents . . . She literally went to clean up this house, she did a lot.

Focus group with service providers

This type of commendable, important work is difficult to do given social workers' huge caseloads. It is the type of dedication to each case that is necessary to ensure that families can stay together. Unfortunately, in a Ministry that is so under-resourced, this type of dedication to a case leads one to wonder whether this worker was able to provide comprehensive service to the rest of her caseload.

High caseloads make it impossible for social workers to respond quickly to changes in parents' situations and make appropriate adjustments as parents improve their lives. It also makes it difficult for social workers to be able to provide meaningful services to families when they need it – these needs are always changing and require continual re-evaluation.

Insensitivity to the circumstances of mothers

Many mothers talked about how the social worker could not understand their circumstances as a parent because they themselves were not parents. Grandmothers, in particular, spoke about the youth of some workers and the difficulty they had accepting the advice of young social workers with no children.

And I asked her if she was a parent and she isn't. How do you know how to raise children if you are not a parent? You aren't even a daycare worker, so how do you know this? She goes, "Because I am a professional."

Interview #2

It makes me wonder if [social workers] have children themselves, it really does, because to me, I think social workers are almost like cops . . .

Interview #29

Some mothers felt that since some social workers did not have children themselves, their attitude was more "cold" and they could not understand what it would feel like to lose your child.

I just think they should be more, they shouldn't be so cold like they sit there and they look like they come out of school like they are 20 years old. And they are sitting there judging, they don't have no kids yeah it's terrible. They should be more caring they should have to take a class about how a parent feels losing their child.

Interview #7

The failure to understand the circumstances of their clients leads to misunderstandings and unnecessary judgments. Mothers identified this as barrier to open communication with their social worker.

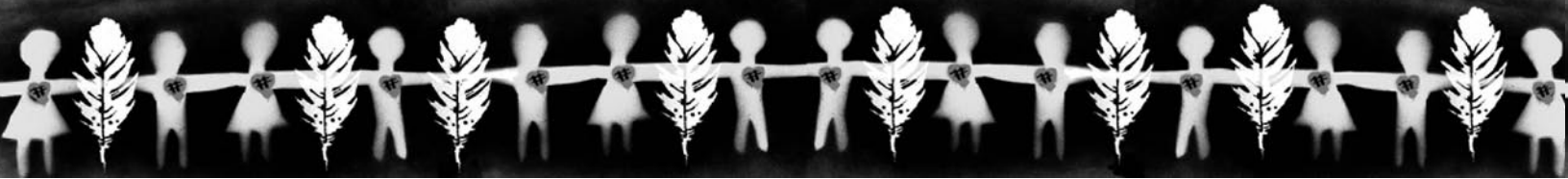
I feel like I have to be so careful in what I tell my social workers. There is a lot of miscommunication and sometimes very minor things are really blown out of proportion. I feel like I am always being judged by the social workers and they do not understand my life or how I grew up.

Affidavit #12

One Aboriginal grandmother discussed feeling that her social worker was insensitive to the reality of her previous negative experiences with the Ministry:

I had to go through home visits and a parental capacity assessment to get my grandchildren home. The social worker said I was reluctant to work with Ministry staff. I felt like I would be stupid not to be reluctant after all of the apprehensions and other problems with the Ministry I had seen in the Aboriginal community. Having been through the system myself it was a really scary experience for me.

Affidavit #5



In order to build more trusting, and ultimately more productive relationships with families, it is imperative that staff at the Ministry acknowledge the negative impacts of government interventions into the family life of many of their clients and respect the fact that it is natural that some clients will be apprehensive about working with them.

Race and class bias

Approximately half of the families involved with the child protection system in British Columbia are Aboriginal, and while the Ministry does not keep statistics on income levels, all of the participants in our study were also living in poverty at the time of their involvement with the child welfare system. Yet, mothers repeatedly talked about the failure of their social workers to really understand the impacts of poverty, colonization and racism. Mothers identified racial and class bias as a major problem affecting decision making by social workers and the treatment they received at Ministry offices.

We feel like we're being treated like low-lives and we are not low-lives. I feel like we are being treated badly by the Ministry because we don't have as much money or privilege as other people do.

Affidavit #1

. . . my biggest problem I think was being sort of too trusting that people who are working in these areas actually were really aware of what it was like to be on welfare or you know what the stresses are.

Interview #18

Social workers that are working with Aboriginal families should be more sensitive to our people . . . I don't think they are very sensitive towards where we've been and what we are going through. I try to be open and honest with them but I feel like when I am being open and honest to them it's been used against me and I shouldn't have said things that I have been open about that I shouldn't have been open at all.

Interview #5

. . . we're raised different too, family is really important to us the way we're raised, traditions are really important. To Aboriginal people, traditional values, philosophies, those things are very highly important and taught right, its more important, like I hate to say it, but it's stressed more than school.

An Aboriginal grandmother describes what happened when a young non-Aboriginal social worker came to her home to do a home visit. The grandmother felt that the social worker had preconceived ideas about what an Aboriginal person's home would be like and these biases appeared in her report:

The social worker they sent to work with me was very young. I feel like she assumed the negative and that the process was set up so that I would fail. In the report she wrote that I "appeared" not to drink and that the home "appeared clean." I do not drink or smoke and my house is clean.

Affidavit #5

While the majority of mothers we spoke to were Aboriginal, most had never worked with an Aboriginal social worker:

In all my years working with the Ministry, I have never once had an Aboriginal social worker. This is really upsetting to me. I know that there are so many Aboriginal children in care and so many Aboriginal parents involved with the system. It would make it so much easier if I could have talked to someone who had some idea of how important it was for me to make sure that my children retain their Aboriginal heritage.

Affidavit #12

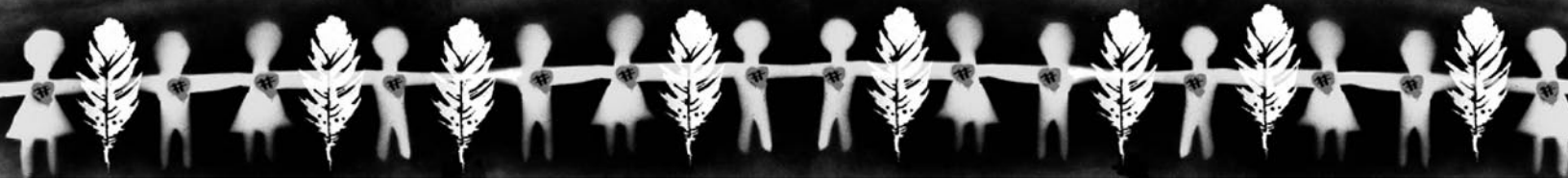
There have been efforts made by the Ministry to recruit more Aboriginal social workers in recent years. However, less than five percent of MCFD staff are Aboriginal.⁹⁹

A service provider pointed to systemic racism as the underlying reason for the low number of Aboriginal social workers working for the Ministry:

There are a lot of Aboriginal people getting trained. They are getting trained but they are not getting hired. I have a friend who graduated and she couldn't get a job, and she wanted the job working in the Aboriginal team and she said they hired non-Aboriginal, she said they hired like four, and they were all non-Aboriginal. She didn't get the job, she works at the friendship centre, which is great because she is working but she is not working as a social worker.

The service provider went on to describe the general climate of racism at Ministry offices and the necessity of identifying which workers are racist and ensuring that they are let go:

So I mean there is discrimination and racism within the



system. Other social workers, the good social workers and Aboriginal social workers have told us and our organization that there is racism within their system, their team, their team leader and supervisor is racist, that is what they told us. Different social workers in one office . . . I think that is maybe the most important thing that has to stop, the discrimination and racism within the social workers and team leaders. I mean there has to be some kind of cleaning because they know inside, they know who it is. It is like the biggest dysfunctional family I have ever seen.

Feeling unsafe with social workers

The inaccessibility, power, bias and general attitude of social workers came up frequently in mothers' affidavits and interviews. Mothers could normally point to at least one good experience with a particular social worker, but the general feeling was that the direction that their case took was dependent on which social worker they were assigned and that good experiences with social workers were the exception.

There are social workers I would happily clone because they use their judgment, are pro-family, and then there is another extreme of social workers who are like, "I'm in charge, don't mess with me."

Focus group with child protection lawyers

A mother who had no previous experience with the Ministry describes the intimidating atmosphere when working with a social worker:

It was all new to me so it was kind of scary because [social workers] have a lot of power right? It was just really intimidating. I found I just felt scared that my life was in their hands and his life was in their hands.

Interview #32

Legal Services Society recommends that parents always bring a support person with them to their meetings with social workers.¹⁰⁰ Mothers who were very familiar with the child protection system told us that they would no longer go to meetings on their own. Racial and class bias, and the general feeling that social workers did not understand their circumstances as parents, made many mothers feel uncomfortable, and even unsafe, in meetings with their social workers. This fear makes it very difficult for mothers to work with social workers in a productive way. However parents reported that there are not enough advocates to go around. Some mothers talked about

wanting to avoid their meetings with social workers because of the negative impact these meetings would have on their psychological well-being:

. . . Every time we wanted to talk to her or meet with her I would end up getting all upset. Majority of the time it was in front of my daughter and I didn't like that.

Interview #12

Just their attitude towards you, and its like they were better than you. It was hard right because every time I went into the office I would come out crying . . .

Interview #15

I mean, I'm getting stomach problems. I have to mentally prepare myself before I call for visits because when I hear that social worker's voice it just does all kinds of things to my stress level . . .

Interview #2

The team leader was verbally abusive towards me and spoke in a very threatening way. I was stunned that he was yelling at me in that way. The way that he was treating me mirrored the way that I was treated by the father of my son who abused me for so many years.

Affidavit #9

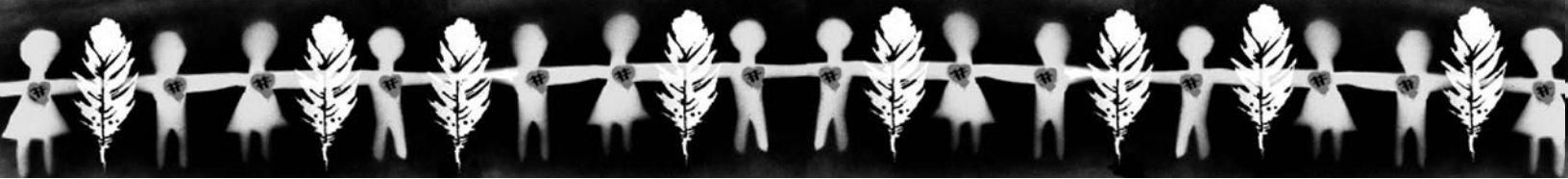
Lack of accountability

Front-line social workers and their team leaders make countless decisions on a daily basis that directly affect parents and their families. These daily decisions are rarely measured against any formal review process. While a court may be involved in determining whether a removal or the denial of access was reasonable, courts do not and cannot review the high volume of decisions that are continually made by the Ministry in each child protection file.

I think there should be a faster dispute resolution for the social workers to be accountable for their actions, their mishaps . . . and if they are wrong in a way to at least make it right for their families . . .

Interview #11

For example, a social worker may deny a mother's request that her child continue to attend the same school while he is in care. Or a social worker may decide that a mother's choice of counsellor is not appropriate. These decisions are sometimes made without any explanation to the parent. Failing to provide



reasons for decisions impacts parents' faith in the fairness of the system – it can leave parents feeling like the social worker can make arbitrary decisions that they have no power to challenge. In other words, it is felt that the social worker is not accountable for the decisions that they make.

I wanted my father to come with me to meetings with my social worker to act as a witness. The social worker forbade my father from coming to meetings with me. She did not give a reason why he could not be present with me at the meeting.

Affidavit #8

. . . just like go and do this, then you do it, you get it set up and then they go "I'm sorry but I'm afraid this won't work," that's it. No explanations, no nothing. Even if we ask for one, like we'll go, "What's going on, you told me to do this and now you're," and they just go, "I'm afraid not." You know, no explanation, no nothing.

Interview #10

MCFD will not schedule a family group conference for me. I have written the social worker letters, and she doesn't respond to many of the questions I ask and requests I make. I don't have any idea as to why I cannot have a family group conference scheduled.

Affidavit #8

This lack of accountability is particularly problematic in a situation where there is such a grave power imbalance between the two parties – it is in the social worker or team leader's power to decide whether to remove a child from a parent or return a child to a parent. This power dynamic will necessarily impact the willingness of a parent to complain about behaviour and decisions that they feel are unjust.

Complaint resolution process

Parents are able to file complaints about the way that a social worker has handled their file. The current complaint resolution process can be divided into three steps. The first step is the informal process – the Ministry encourages parents to use the informal process before making any type of formal complaint. The parent is asked to bring up their concerns with their social worker, and/or team leader, and/or operational manager. This is promoted as the most efficient way to resolve a dispute. The second stage is the formal dispute-resolution process. In the formal complaint process, a parent has to call a regional complaint manager or quality-assurance manager and provide them with details of their complaint. If the complaint is legiti-

mate (i.e., found not to be frivolous) and does not interfere with a current court process, the manager will investigate the complaint. This investigation involves discussing the issues with the social worker and/or team leader in question. Within 30 days of accepting the complaint, the manager is required to inform the parent of the result of the investigation. If the parent is unhappy with the review process, they can take their complaint to the Ombudsman of B.C. for an independent review. The parent can also contact the Representative for Children and Youth to make a complaint.

In theory, the complaint resolution process at the Ministry is a good system: it provides for an independent office to investigate parents' concerns; it imposes a time requirement to respond; and complaints can be filed on behalf of parents by advocates or service providers. The problem is that many parents do not feel like the complaint process is a practical way to resolve their disputes. There are two primary reasons for this.

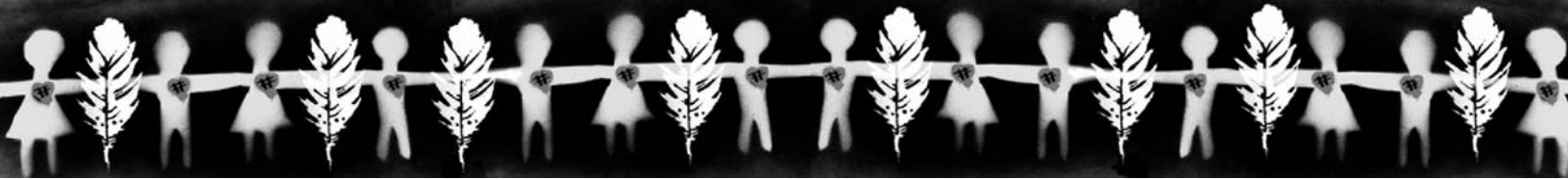
Fear of reprisal

A parent can only make a complaint, using either the informal or the formal process, if they are willing to have the subject of the complaint made aware of it. It would be hard to imagine a complaint process that did not involve bringing the complaint back to the party involved. Basic fairness requires that the person have an opportunity to respond to the complaint. However, this process, in the context of an extreme power imbalance between the social worker and parent, results in parents not making complaints due to fear of reprisal. The complaint process is one of the limited ways parents can hold social workers accountable for their actions. This process is rendered meaningless if parents are afraid of making the person who has the power to return their children angry.

The *CFCSA* explicitly prohibits reprisals because a parent or a child, or some other party has sought a review of a decision made by Ministry staff.¹⁰¹ Despite the inclusion of this clause in the legislation, there is still a palpable fear among mothers that if they complain, there will be negative consequences for their case. Mothers feared that their complaint would have an impact on having their children returned or on other decisions impacting their children, like number of visits:

Q: *Have you ever tried to complain about your social worker or the supervisor?*

A: *No because he was such a hard ass and he just, I didn't want to lose any of my other visits and stuff like that, which*



The File

If there is one symbol that represents for parents the power imbalance inherent in the child welfare system, it is “the file.” For many mothers their weighty files represent much of what is wrong with the child protection system: constant monitoring, unsubstantiated information, and feeling misled by social workers positioned as both helpers and investigators.

Difficulties accessing the file

For most parents, their file at the Ministry is a mystery. Social workers and other decision makers may refer to notes and reports in the file to justify a particular course of action. However, parents are not always provided with a copy of the reports on which social workers are basing their decisions. This is particularly true in cases when a child has just been removed – parents are rarely able to see the notes and reports in their file until later on in the court process and usually only if they are contesting the Ministry’s application for an order.

We don’t get to see any of the information in our file and we aren’t able to respond to the Ministry’s allegations or defend ourselves. Since we’ve proven there is no drug or violence problem, we don’t even really know what their concerns are. For example, the Ministry has never allowed us to see the results of our parental capacity assessment.

Affidavit #1

Without this basic information, parents are unable to adequately respond to the concerns raised by the Ministry. This is particularly problematic with respect to day-to-day decisions made by the social worker related to the care of the child or the parent’s access to their child given that these decisions are not generally reviewed by the court system. The failure to provide parents with documents on which decisions are based contributes to the power imbalance between parents and social workers and the sense among parents that social workers are not held accountable for their decisions.

A one-sided perspective

A number of mothers spoke about the way in which the documentation process within the child welfare system creates a picture of their family that is almost entirely nega-

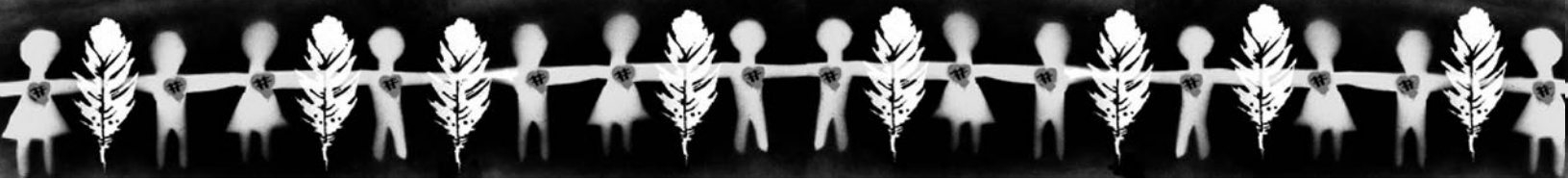
tive or which is narrowly focused on harm or potential harm caused by the parent’s behaviour in spite of a range of other, potentially more pressing, difficulties that their children may be facing. One mother described watching the process unfold:

At one meeting with the social worker and the team leader, I explained how [the removal] was affecting the kids and how upset they were about being separated and one of my children was acting up at school. Throughout the meeting the social worker and the team leader were taking notes – when I talked about this, no one wrote anything down.

Affidavit #4

A child protection file is normally made up of social worker’s notes. The notes are a social worker’s account of events, meetings, and conversations and these may not accord with the parent’s version of events. While a social worker can be cross-examined on her file notes if the matter is heard before a judge at Provincial Court, there is no process in place to ensure that file content is otherwise accurate. The result is that file recordings that may be inaccurate remain a permanent part of the record, and impact the way parents are assessed. Consequently, when a new social worker takes carriage of a case, inaccurate file recordings and/or documents to which the parents have not been given the opportunity to respond will necessarily colour the social worker’s understanding of the issues in the case and her initial assessment of the parents. Advocates suggest that parents counteract this phenomenon by providing the Ministry with letters documenting their account of meetings and conversations. This is an unrealistic solution given the number of meetings and conversations that are involved as well as the limited education and means of many parents who interact with the child protection system.

A common complaint from mothers was that the Ministry ignored extended periods of time when there was no Ministry involvement in their life as a parent and instead overemphasized particular moments in their youth when the Ministry had been involved. A parent’s file at the Ministry will necessarily not include information about periods when a mother is successfully parenting



without the involvement of the child protection system. The file will only include information about periods when the parent came into contact with the Ministry and her progress during that time. This can paint a skewed vision of a parent. When a new concern is raised after years of a successful parenting, efforts should be made to record information with respect to the quality of parenting in the absence of Ministry involvement.

A Life Sentence

Parents who had a chance to see their files often felt overwhelmed by the sheer volume of information that had been compiled about themselves and their families over the course of many years. Mothers explained that they felt like once involved with the Ministry one could never escape the past. No matter what strides a parent was now making, the past was continually brought up and remained an integral part of the file that was kept by the Ministry.

Many mothers wished that there was a mechanism through which files could be sealed after an extended period where no child protection concerns were raised. One mother compared her Ministry file to having a life sentence:

I really, really, really believe that they should get rid of the files after a certain amount of time. For life – it is like a life sentence.

Interview #27

A number of parents stated that they did not use services offered through the Ministry because they were concerned that their request would be recorded in their file and later used against them:

. . . I liked the agencies more than what [the Ministry] had to offer because, [the Ministry] writes everything down and they don't erase it so it's in that file forever. And I didn't want that.

Interview #28

Many parents spoke at length about inaccurate information in their files or the inclusion of documents outlining the suspicions or concerns that brought them to the attention of the Ministry, explaining that the Ministry failed to include documents to indicate that the concern had been shown to be unwarranted or less serious than originally believed.

ended up happening anyway.

Q: *Do you feel like they would punish you like that if you complained?*

A: *That's what I felt like.*

Interview #15

One mother described her initial reluctance toward making a complaint when she learned that a team leader who had been verbally abusive to her would be privy to her complaint:

I wanted to make a complaint about the way I was treated by the team leader. I was told that if I wanted to make a complaint it had to be given to the team leader who I was making a complaint against. I tried to explain that I did not want him to see the complaint but was told that this was the only way to make a complaint. I do not feel safe around the team leader and he is the subject of the complaint. I feel like it could negatively impact my chances of getting my child back if he sees the complaint.

Affidavit #9

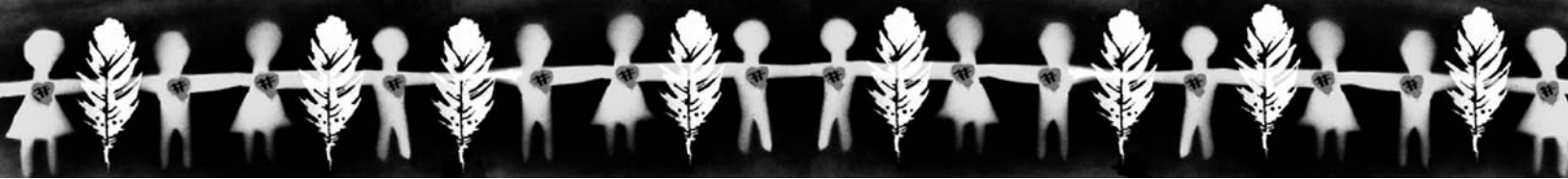
After being unable to resolve the issue herself with her social worker, this mother decided that despite her fear of reprisal, she would make a complaint. She describes her disappointment with the process:

I made the complaint through quality assurance and approximately one month later I received a letter that stated that the Ministry had addressed my concerns. There was no indication in the letter as to how the Ministry did address these concerns. I felt like there was no point to making the complaint. I feel like nothing changed, and my concerns were not addressed.

Affidavit #9

Irrelevant process

The second reason that many mothers did not make a complaint is that they did not believe that this process would in fact resolve their situation. Even though the mothers we interviewed had many complaints about the way their child protection case was handled, very few mothers engaged with the complaint process available to them. Even putting a



parents' fear of reprisal aside, it is easy to see why a parent may not feel like the complaint process is very relevant to resolving disputes in their child protection case. The two mothers who did proceed with formal complaints ended up being disappointed with the response – in both cases the response from quality assurance only advised them that the matter had been dealt with but did not set out what findings were made or what, if any, further steps were being taken.

In her November 2007 review of the Ministry's implementation of the recommendations of the Hughes report, the Representative of Children and Youth found that the Ministry had made limited or no progress in finalizing an appropriate complaint resolution process.¹⁰² In order to respond to this lack of action, the Representative for Children and Youth has indicated that she had invited the Ombudsman to jointly undertake a review of the complaint resolution processes available at the Ministry and delegated

agencies.

The complaint process appears to be particularly inept at addressing the common complaint of mothers that social workers failed to provide them with an explanation or a reason for a decision. Procedural fairness requires that written reasons are provided where a decision is particularly important for an individual.¹⁰³ In the child protection context, it would be overly onerous to require social workers to provide parents with written reasons for the multitude of decisions that they make on a daily basis. However, social workers should be, at the very least, advising parents orally of the reasoning behind a particular decision. This is not an onerous requirement – it is in keeping with basic principles of administrative fairness. Parents are entitled to know why their requests are denied or why their concerns were not addressed. This is not happening even in cases where parents have made repeated requests for information. The failure to provide reasons for decisions only

Social workers play a crucial role in determining whether a child will be removed or returned to a family. Short of going to court, holding social workers accountable for their decisions is very difficult for parents. Many parents also felt that their social worker could not understand their circumstances as a low-income and/or Aboriginal parent. The high caseloads of social workers do not permit them to spend adequate time with parents and to make decisions and/or respond to parents in a timely way. The frequent changing of social workers also contributes to delays and an inability to really get to know the family. Ultimately, the dual role of social workers as support people and investigators inhibits them from working effectively with parents toward the goal of family preservation.



EXPERIENCING THE COURT SYSTEM

The Supreme Court of Canada has confirmed that the removal of a child from a family constitutes a serious interference with a parent's psychological integrity, is a gross intrusion into the intimate family sphere, and can potentially interfere with the rights of the child.¹⁰⁴ As a result, parents are entitled to a fair hearing and due process in child protection matters.

This means that parents must be provided with a lawyer if they cannot afford one, and it must also mean that the process has to proceed with reasonable speed and that parents have to be provided with full details of the case against them.

The Courts play an important role in the child protection system as decision maker and reviewer of child protection cases. Going to court for any reason is rarely a pleasant experience, but many parents dealing with the child protection system report that their experiences were very negative: they are frustrated with and alienated by the court process, in which they feel they have little voice and little opportunity to meaningfully participate – even when represented by a lawyer.

The Court Process

There are two avenues by which Ministry-involved parents find themselves before the courts (see Figure 2). Parents are asked to appear in court after the Ministry apprehends their child or applies for a supervision order permitting social workers to monitor the parent's care of the child according to a set of conditions.

Presentation hearing

The first stage of the court process is called the presentation hearing. This hearing must take place within seven days after the removal of a child or ten days after the Ministry has applied for a supervision order.¹⁰⁵ Section 35(1) of the *CFCSA* requires that the Ministry present the court with a written report that includes:

- the circumstances that caused the director to remove the child;

- an interim plan of care for the child;
- information on whether any less disruptive measures were considered prior to the removal; and
- in the case of an Aboriginal child, the steps taken to preserve the child's Aboriginal identity.

This information is presented to the court and provided to the parent in a form commonly called the Report to Court. The information contained in the sample Report to Court in Figure 3 is adapted from the facts contained in Affidavit #1.¹⁰⁶ In this example, Cindy-Lou does not agree with the facts contained in the Report to Court. She did not tell anyone that her partner had been physically violent with her. Cindy-Lou tried to explain to the social worker that the family preservation worker had misinterpreted what she had meant when she said she felt like she was at risk. She also does not agree that she has or ever had a problem with alcohol.¹⁰⁷

It is unlikely that anything substantive will happen at Cindy-Lou's first appearance at court. If she consents to the removal at this first stage, the Ministry will be granted an interim order to keep the child in their care. Cindy-Lou may consent to this application even if she does not agree with all of the facts contained in the Report to Court. The interim order will only be in effect for a maximum of 45 days, at which point the parties will have to return to court for the protection hearing.

If Cindy-Lou does not agree with the removal, the hearing will be adjourned to the Judicial Case Manager, who will have to set another date at which point the parties will have the opportunity to argue the merits of the Ministry's application before a judge. Another court date is required because the judge presiding over the presentation hearing will not have the

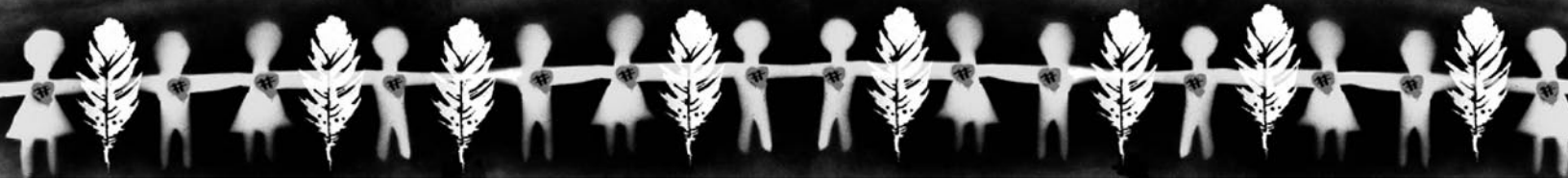
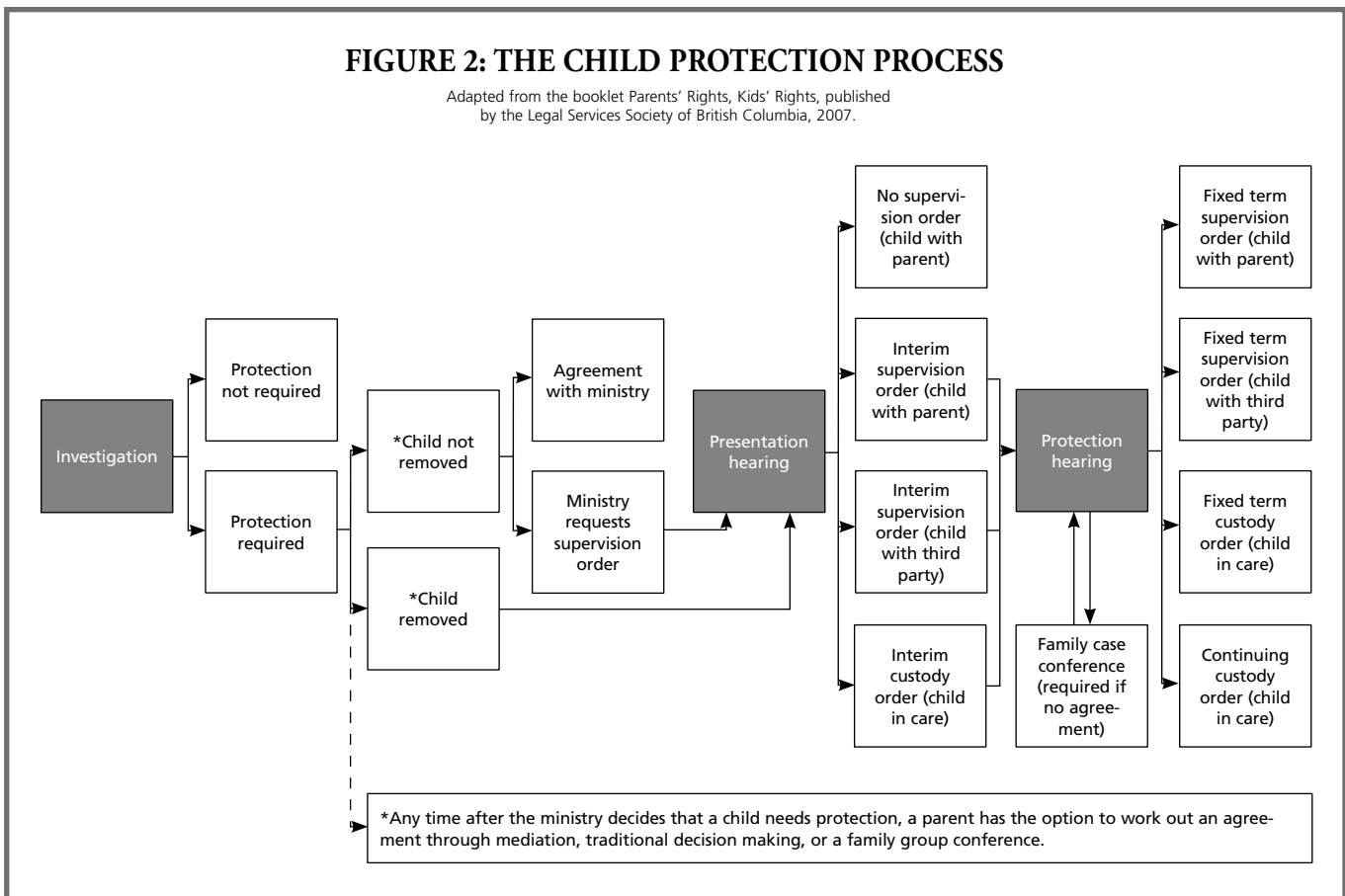


FIGURE 2: THE CHILD PROTECTION PROCESS

Adapted from the booklet *Parents' Rights, Kids' Rights*, published by the Legal Services Society of British Columbia, 2007.



time during the first appearance to hear the evidence required to decide whether the removal of the child was reasonable.

The judge at the presentation hearing will not make a final determination with respect to whether or not the child is in need of protection. The presentation hearing is a summary hearing and the main issue to be resolved is the best way to care for the child pending the full investigation into whether the child is in need of protection. The judge must consider whether the admissible evidence is sufficient, if believed to be true, to support a finding that a child is in need of protection.¹⁰⁸ Three types of interim orders can be made at this stage: the return of the child to the parent; the continued care of the child by the Director; or a return of the child to the parent or a family member under a supervision order.¹⁰⁹ At the conclusion of the presentation hearing, a protection hearing, where a judge determines whether the child is in need of protection, must be scheduled as early as possible. This date cannot be more than 45 days after the conclusion of the presentation hearing.¹¹⁰ For Cindy-Lou, her next appearance in court will be six weeks from

the conclusion of the presentation hearing and no earlier, as that is the practice in Vancouver courts.¹¹¹

Protection hearing

If Cindy-Lou's daughter is returned under a supervision order or remains in the care of the Director, a protection hearing will be necessary to determine whether she is in need of protection. Ten days prior to the protection hearing, the Ministry is required to provide the parent with an application for the order that they are seeking as well as a plan of care for the child. These forms are similar in style to the Report to Court form used at the presentation hearing stage.¹¹² The first appearance at a protection hearing is known as the "commencement date." Cindy-Lou will not have a real opportunity to voice her position at this stage. She will only be able to consent to the order the Ministry is seeking or oppose it. If she is opposed to the order, the hearing will be adjourned to the Judicial Case Manager, in order to set a date for a case conference before a

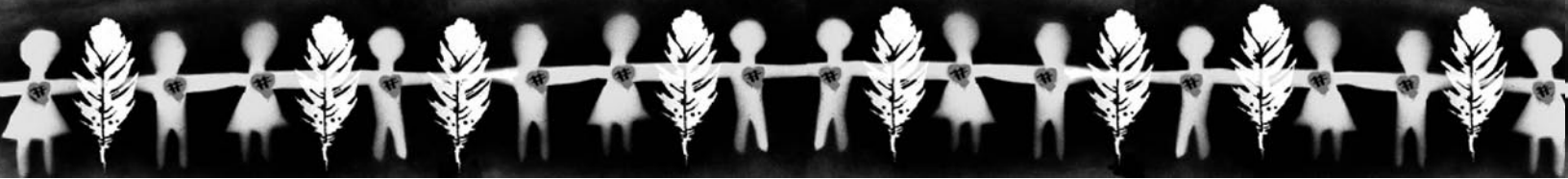



FIGURE 3: REPORT TO COURT – CASE EXAMPLE



BRITISH COLUMBIA

**Report to the Provincial Court of British Columbia
Form A**

Child, Family and Community Service Act

Court Number:
XXXXXXXX

Court Location:
Vancouver

I, **SOCIAL WORKER**, as a delegate of the director under section 92 of the *Child, Family and Community Service Act*, present this written report to the court.

The child listed below are under the age of nineteen years, and are the subject of this report:

| Child's name | Birthdate | Sex |
|---------------------|-------------------------|---------------|
| ANNA VANDALL | September1st2007 | Female |

The following are the parents and/or siblings of the children:

| Parent's name | Relationship to children | Address | Phone (home) | Phone (work) |
|--------------------------|--------------------------|------------------------|--------------|--------------|
| CINDY-LOU VANDALL | Mother | XXXXXXXXXXXXXXXXXXXXXX | XXXXXX | XXXXXX |
| KEVIN VANDALL | Father | XXXXXXXXXXXXXXXXXXXXXX | XXXXXX | XXXXXX |

If the children are aboriginal, the following are the names of each child and the names of each child's aboriginal community or the band that the child is registered or entitled to be registered as a member of or whether the child is a Nisga'a child of the Nisga'a Nation:

| Child's name | Community or band name or Nisga'a Nation |
|---------------------|--|
| ANNA VANDALL | Squamish |

Facts of Removal
The child was removed on the following date and at the following location:

| Date and time | Location |
|----------------------|---|
| 27October2007 | 471 East Broadway, Vancouver, BC |

By and in the presence of:
(first list the person removing the and then any other person(s) present at the time of the removal)

| Name |
|--------------------------|
| SOCIAL WORKER |
| CINDY-LOU VANDALL |

The circumstances that caused the director to remove the child are as follows:

On October 24, 2007 the Director received a report that the mother, Cindy-Lou Vandall, and the father of the child, Kevin Smith, were in a hostile conflict the previous night where Kevin engaged in physical violence against Cindy-Lou. It was reported to the Director that Cindy-Lou had disclosed to her family preservation worker that she was afraid for the safety of herself and her child. Kevin Smith lives in the family home with Cindy-Lou and their child. There have also been reports from the community that both parents have had problems with alcohol. Concerns have also been raised in the past about verbal arguments taking place in front of the child.

On the same day as receiving the report, SOCIAL WORKER called Cindy-Lou and asked her about the argument and the safety of the child. Cindy-Lou said that she no longer felt that Kevin would do anything violent. The Director was not satisfied, given the past history of verbal abuse and alcohol abuse, that Cindy could adequately protect the child from Kevin's violence.

As a result of current circumstances and ongoing historical concerns, the Director removed the child.

FORM A
Rev. 01/2006



Statutory Authority for Removal

The child was removed in accordance with the following:

- section 30 of the *Child, Family and Community Service Act* in the following circumstance(s) as described by section 13 of the Act:
 - (a) the child has been, or is likely to be, physically harmed by the child's parent
 - (b) the child has been, or is likely to be, sexually abused or exploited by the child's parent
 - (c) the child has been, or is likely to be, physically harmed, sexually abused or sexually exploited by another person and the child's parent is unwilling or unable to protect the child
 - (d) the child has been, or is likely to be, physically harmed because of neglect by the child's parent
 - (e) the child is emotionally harmed by the parent's conduct
 - (f) the child is deprived of necessary health care
 - (g) the child's development is likely to be seriously impaired by a treatable condition and the child's parent refuses to provide or consent to treatment
 - (h) the child's parent is unable or unwilling to care for the child and has not made adequate provision for the child's care
 - (i) the child is or has been absent from home in circumstances that endanger the child's safety or well-being
 - (j) the child's parent is dead and adequate provision has not been made for the child's care
 - (k) the child has been abandoned and adequate provision has not been made for the child's care
 - (l) the child is in the care of a director or another person by agreement and the child's parent is unwilling or unable to resume care when the agreement is no longer in force
- section 36 (1) of the Act, which requires a director to remove the child if the director has reasonable grounds to believe that either or both of the following apply:
 - (i) an order made under section 33.2, 35 (2) (b) or (d) or 36 (3) of the Act no longer protects the child;
 - (ii) a person has not complied with a term or condition of an order under section 33.2, 35 (2) (b) or (d) or 36 (3) of the Act and a director is required by that order to remove the child in the event of non-compliance.
- section 42 (1) of the Act, which requires a director to remove the child if the director has reasonable grounds to believe that either or both of the following apply:
 - (i) that a supervision order made under section 41 (1) (a) or (b), (1.1) or (2.1), 42.2 (4) (a) or (c), 46 (3) or 49 (8) of the Act or an interim order made under section 42.1 of the Act no longer protects the child;
 - (ii) a person has not complied with a term or condition of the supervision or interim order and a director is required by that order to remove the child in the event of non-compliance.

Less Disruptive Measures

If the child was removed under section 30, the following less disruptive measures were considered before removing the child.

The Director made several attempts to find a suitable family member who could supervise the care of the child with the mother. No suitable family member has been found.

Interim Plan of Care

The child's current living arrangements are as follows:

The child is living in a Ministry approved foster home.

Steps taken to preserve child's aboriginal identity are:

- not applicable
- as follows:

Child will have regular contact with mother.

The child's views on the interim plan of care:

- have been considered
- have not been considered

The parents:

- have
- have not

been involved in the development of the plan.

Director's Recommendations About Care and Supervision and Access

The director recommends the following with regard to care and supervision of the child and access by any person to the child.

Mother will have regular supervised contact with her children

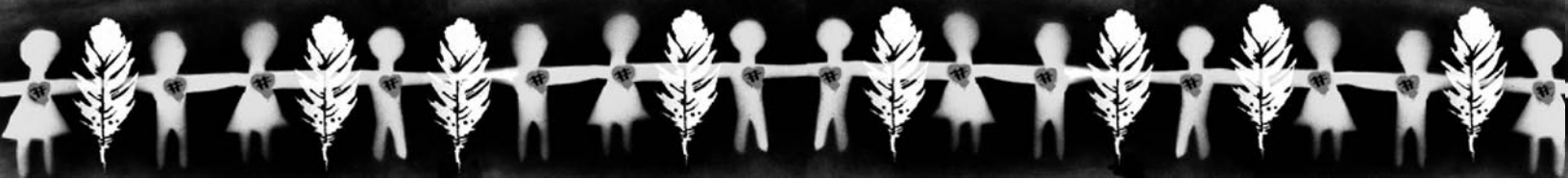
Signature of the Director's delegate: _____

Business address of Director's delegate: **471 East Broadway, Vancouver, B.C. V5T 1W9**

Business phone number of Director's delegate: **xxxxxxxxxxxxxxx**

After-hours emergency phone number: **xxxxxxxxxxx**

Date: **2007November1st**



judge pursuant to Rule 2 of the *Child, Family and Community Services Act* (“CFCSA”). No date will be set for the trial at this stage.

Rule 2 case conference

A case conference is a meeting with a judge, the parent, the parent’s lawyer, the social worker and his or her lawyer. In Vancouver, case conferences are scheduled for a one-hour block of time.¹¹³ No court orders can be made at the case conference unless there is consent of all of the parties. A judge acts as a mediator during the case conference and can facilitate an agreement on any issues of dispute between the parties that do not require the hearing of evidence. If no agreement is reached between the parties, this time can be used to prepare for trial. A case conference is an opportunity for a judge to review the adequacy of the disclosure of parties and make orders with respect to disclosure and intended witnesses. The judge can also give a non-binding opinion based on the limited evidence of the probable outcome of the hearing.¹¹⁴

If there is no agreement at the case conference, dates will be set for trial. The length of the trial depends on the complexity of the case, but hearings will normally span at least two or three days.

Temporary orders and continuing custody orders

At the conclusion of a protection hearing, the judge must make an order with respect to whether the child is in need of protection, unless the parties have already come to an agreement between them. This can be a temporary order or a continuing custody order. A temporary order expires, and the parent will have the opportunity to have another protection hearing if the Ministry applies for an extension of the order. If a continuing custody order is granted, however, a parent will no longer be able to challenge the custody of their child unless the circumstances that caused the court to make the order have changed significantly.¹¹⁵ Under a continuing custody order, the Director becomes the sole guardian of the child and can consent to their adoption.¹¹⁶

In Cindy-Lou’s case, the Director would not be applying for a continuing custody order at this early stage. Given that the baby is two months old, the Director could not apply for a temporary order that exceeds three months.¹¹⁷

Parents’ experiences

In order to determine whether the court system is providing an effective way to review the decisions made by social workers and team leaders at the Ministry, parents’ experiences with this review process and their ability to engage with it must be examined. Given the extreme marginalization of many parents involved with the child protection process and the life-altering consequences of decisions being made, it is imperative that the court system be one that instills those most impacted by it with confidence. However, almost all of the mothers we spoke to did not have a basic understanding of the different stages involved in the child welfare court process, even though they had gone through the process, some having gone through it multiple times. This is particularly distressing given that almost all of the mothers we spoke to had access to legal counsel throughout the court process.

A common theme throughout the interviews and the affidavits was that the court system is alienating, confusing, disempowering and difficult to participate in:

... I was an outsider, and the judge, lawyers, and social worker were communicating with each other. No one was explaining anything to me. After it was over, my lawyer told me that we would have to set another date. That was all that I learned, and I felt like the process was a dead end in that we are not getting anywhere and I did not understand what was happening in the case.

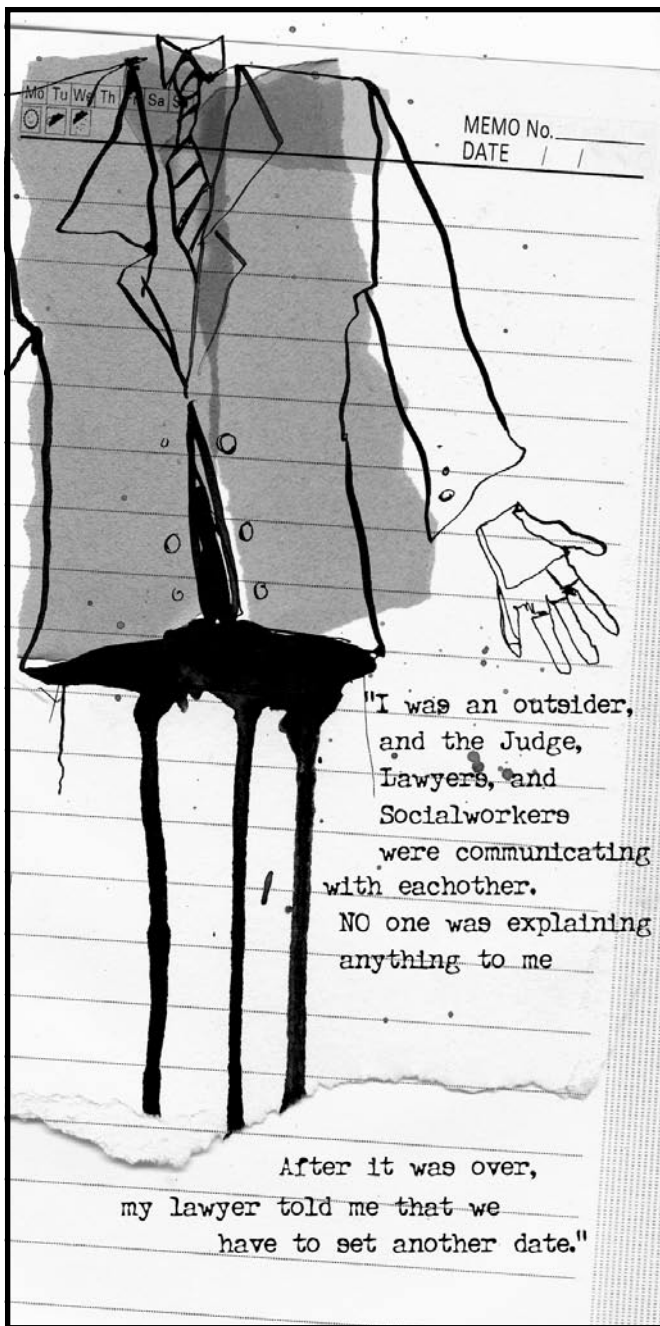
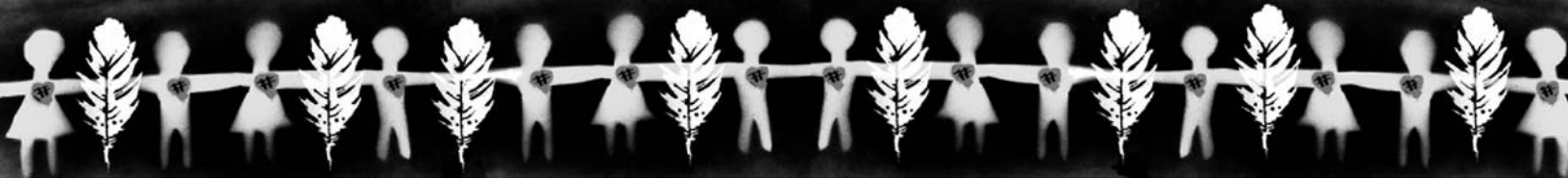
Affidavit #6

One mother described how depressing the court experience was for her, leading her to have an angry outburst in court, and ultimately to give up completely on the process:

... it was very depressing; the best thing about the courts was the children didn’t have to go through it all. I just so thank God for that because it was just so tremendously upsetting, like every single court was like, it was like fighting a losing battle was what it was, it was fighting a losing battle and I had no energy to be fighting that losing battle.

I remember lashing out at them once, and then after that I apologized to them, and I just went, I’m sorry, this is terribly upsetting for me and I feel ganged up on here, I feel like there’s nobody here for me including my lawyer, and I pointed to him sitting besides me and so I said this battle is over, you win . . . so the next week we went to court, I signed the paper, and just bawled and drank and drugged all week, 24/7.

Interview #8



When asked how their clients experienced the court process, advocates confirmed the feelings described by parents:

Advocate A: *It is like a cattle range there. The judge is like: "Next, next . . ."*

Advocate B: *. . . families are left all on their own. Nobody is telling them what is the process they have to go through. Nobody*

is saying, the social worker isn't saying: "It might be a good idea that you get an advocate or a lawyer" nobody is saying that, they are left essentially out there all by themselves.

Complete strangers have walked in, they have taken their children, they are not given any information, they don't know what to do. That's fear. And what do they do, unless they come across somebody from an [advocacy agency].

Advocate C: *Like they don't know simple things like, when you are called up you always go and stand behind the lawyer, right? They don't know these little things . . .*

Focus group with service providers

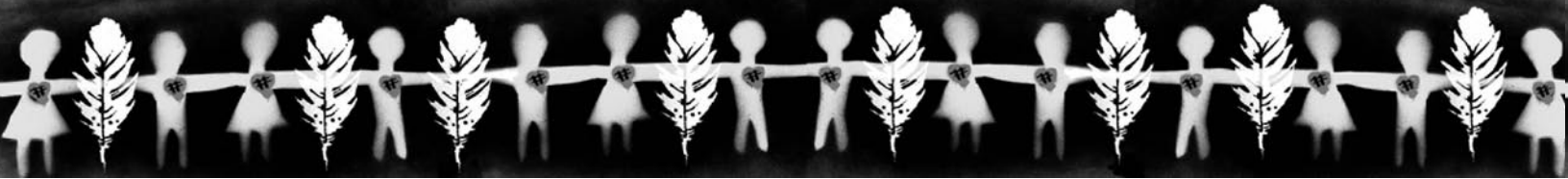
Mothers specifically identified a few issues that contributed to their dissatisfaction with the court process. These included: their relationship with their lawyer; delays in the court system; and a lack of disclosure soon after the removal.

The need for legal representation prior to apprehension

Generally, parents are entitled to legal representation through legal aid for child apprehension cases. In B.C., financially eligible parents who are involved with the child welfare system are entitled to representation where: their child has been removed by the Ministry; the Ministry has threatened to remove their child; or the parent is dealing with custody and access to a child who is in the care of the Ministry.¹¹⁸ As a consequence, almost all of the mothers we spoke to had access to counsel at some point during their involvement with the Ministry.

None of the mothers we spoke to had accessed legal counsel prior to the removal of their child even though legal aid will fund legal representation where there is a threat of removal. Removals do not always occur in a moment of crisis, without notice to parents – many times a child will be apprehended from a parent where there had been an accumulation of concerns about the parent over time. In these circumstances, it would be very useful for parents to have legal counsel who could work proactively with them at avoiding the apprehension of their child. Unfortunately, most parents do not obtain a lawyer until they have a court date set, usually once their child has been removed. One lawyer explains why this may be the case:

Only a small percent come to see us before the removal; they're either clients I've known before who know who I am, or they've been referred to me from one of the shelters and



know they have to speak to a lawyer. That's why I wish social workers would see a value in starting to talk to a lawyer before removal.

Focus group with lawyers

Parents need to be informed that they can obtain legal counsel prior to a removal. Social workers, who are working with parents during the investigation stage, are in the best position to inform parents of this.

Relationship with lawyer

Many mothers reported that they did not feel their lawyer was effectively advocating on their behalf. Mothers discussed their frustration with not being able to spend enough time with their lawyer discussing their case. Mothers felt that lawyers did not always adequately explain the process to them. Some mothers felt their lawyer was not acting in their best interest and had a better understanding of the Ministry's position than their own.

One mother talked about how she could not communicate with her lawyer as he had not reviewed documents from the Ministry, nor did he schedule to meet with her in advance of important meetings with the Ministry:

I feel like my lawyer does not communicate well with me. He does not send me any letters. He has not seen the plan of care agreement I have with the Ministry. Prior to going to the mediation, he only spoke to me for 15 minutes.

Affidavit #8

Another mother talked about the difficulty in expressing her concerns to her lawyer given that she only meets with him directly before the hearing at the court house:

I only see my lawyer right before a court date at the court house. I feel that there is too little time to really express to him my concerns or to hear from him and really understand what is going on in my case.

Affidavit #6

Meeting your lawyer at the courthouse right before the hearing is problematic for a number of reasons and likely contributes to the feelings of alienation that seem to be common among parents going through the court system. The issues involved in a child protection case are continually changing, as the lives of parents are not static – parents are less

likely to be able to share this evolving information with their lawyer when they are given such a limited amount of time with them. Meeting at the courthouse also puts parents in the position of having to make difficult and significant decisions about their families on the spot – it can also result in a situation where even though the lawyer is seeking instructions from the parent, the parent does not feel that they can really direct the outcome or that they are really “running the show.” Ultimately, the less time a lawyer spends with the client, the less likely he or she can build a trusting relationship where the client feels safe to disclose information and become engaged in the process.

I feel like my lawyer's explanations are really vague about what is going to be happening at court or the next steps that we have to take. For example, I will ask him when we have to go back to court and he will respond, “Oh, don't worry, it's not for a while.” I do not feel like my lawyer's relationship with me is very professional. He seems very distanced from my case and only speaks to me through the advocate, and I worry that there may be miscommunication.

Affidavit #6

This distance between the lawyer and the client can also create the impression that the lawyer is really working for the Ministry and not for the parent:

I think he communicated more with the Ministry than he did with me.

Interview #8

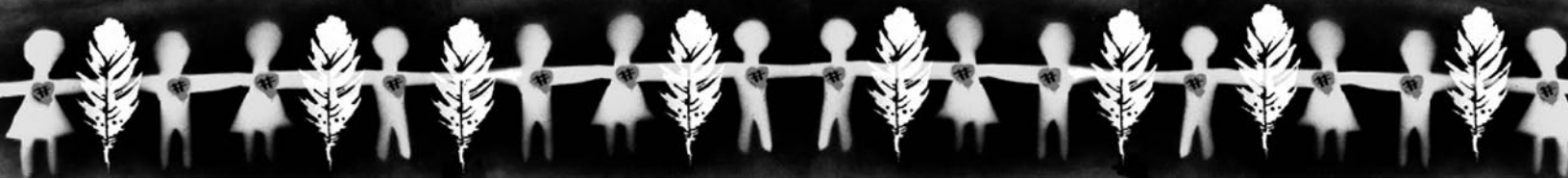
Some mothers acknowledged that their lawyers could not spend more time with them because legal aid did not pay them enough:

I feel like he is only doing his job by what legal aid is paying him, which is probably not very much. I don't feel like I should be punished for legal aid not paying lawyers enough to be able to represent me properly.

Affidavit #6

One lawyer describes the problem:

The structure of the legal aid tariff and the caps on the amount of time [are the problem] . . . they have the general preparation and they have preparation at the different stages. As I recall, the



last time I looked for the interim hearing, there was only two hours of additional preparation . . . which is fine, if you walk into court and get instructions from your client, but if on the other hand, some other issues arise and things are unresolved, and you want to spend some time talking with social workers, talking with counsel . . . two hours go by fast. Lawyers are being asked to choose between making economic decisions in their own interest and making legal decisions that may not be in their client's interest.

The legal aid tariff sets out the number of hours that can be billed for each stage of a child protection case. For example, preparation for a case conference is limited to one hour. Two hours is the maximum amount of preparation for a presentation hearing – work that legal aid acknowledges could include: reviewing the Report to Court, meeting and preparing with the client, researching caselaw, interviewing witnesses, and meeting and negotiating with the social worker.¹¹⁹ Legal aid provides for an additional five hours for general preparation or other work not specifically covered by another tariff item. The general preparation limit is throughout the life of the file, which may take several months if not years.

The legal aid tariff makes it difficult for lawyers to manage a child welfare practice. Lawyers need to take on a large number of clients in order to make their practice viable. They have to make decisions about how best to maximize their time with their clients given the limited time that they can bill for that work. This may mean that lawyers have to meet their clients at the courthouse right before the hearing, or that they do not have the time to negotiate with the social worker, to respond to updates from their clients, or to follow up after meetings with the Ministry. The limits in the legal aid tariff particularly impact the ability of lawyers to serve clients who are very vulnerable and marginalized. One lawyer explains the extra time needed for some of his clients:

Clients . . . are far too absent, sometimes. Clients who don't have a phone . . . very hard to get a hold of I've . . . gone by their house . . . just to check up on them, which again is something we might not have time to do, your house-call lawyer.

While all of the mothers we spoke to reported that they were able to obtain a legal aid-funded lawyer for their case, in most cases they did not feel that they were adequately represented through the court process. It is important that parents are made aware of their right to secure legal counsel as soon as

there is a threat of apprehension, as it is much easier to negotiate with the Ministry and explore alternatives before a child is taken into care. It is also clear that parents do not have the level of legal support they need to effectively navigate the court system and ensure that their views are heard. Legal aid tariffs have to be changed to reflect the complexity of these cases and the critical nature of the outcome at each stage.

Delay

Delays happen throughout the court process for a variety of reasons: adjournments by Director's counsel and by parent's counsel; non-appearance by the parent; lack of available hearing dates; and difficulty in coordinating schedules between parent's counsel, Director's counsel, and the Court. During any adjournments in court proceedings, children stay where they are.¹²⁰ A child will remain in care even when there is an adjournment at the beginning of the court process, before there is an interim order in place. Adjournments work in favour of some parents, who need the extra time to follow through with a plan or respond to a very specific concern of the Ministry. But for many of the mothers we spoke to, the inevitability of delay in the court system was a source of frustration, especially where the delay had nothing to do with them:

Just recently, the lawyers for the Director changed and now our trial is being pushed forward for another six months. My children have to continue to live in care because the lawyers for the Director are not prepared to proceed. Any delays in the process work in favour of the Ministry because the children will remain in care during any adjournments.

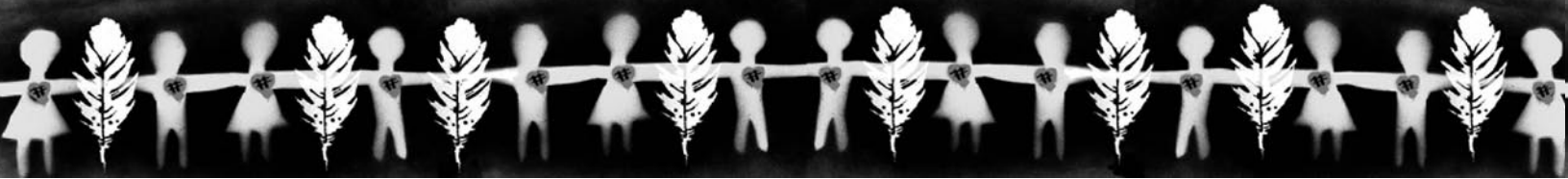
Affidavit #12

For mothers who have been working with the Ministry for a number of years, delays prevent them from moving on with their lives; instead they live in a continual state of uncertainty:

For me, a major difficulty is that this process never seems to end. Me and my children would like closure and time to heal from the situation but there are so many delays in the court proceedings that it feels like it will never be resolved.

Affidavit #12

Advocates discussed the significance of the delay on parents and how it can lead some parents to give up on the process:



Advocate B: *I have had clients, where their child has been apprehended and they get to court, a Thursday or a Monday, or whenever and the matter gets adjourned a week because the social worker is on holidays. And I am like: “Wait a minute, we are talking about a child, who is brand new, who needs to bond with mom or dad or both and you are putting it off a week because someone is in Maui?!”*

Advocate J: *Or the lawyer isn’t up to speed with the case or they haven’t had the time to secure a lawyer . . .*

Facilitator: *How do parents experience that delay?*

Advocate B: *They are frustrated! They are frustrated and angry. And then they don’t get a lot of explanation why or what they can do – “No, you just have to wait.”*

Advocate F: *It’s like: Here’s your child, it has been taken away and you don’t have a clue what is going on. There is no one to explain to you what is going on. And then your child is away for another week.*

Advocate D: *It sets women up who have such issues to relapse.*

Advocate G: *They end up downtown and stay there.*

Focus group with service providers

A guiding principle in B.C.’s child welfare legislation is that “decisions about children should be made in a timely manner.” Accordingly, the legislation requires that court appearances adhere to a strict timeline. For example, once a child is removed, the first hearing, the presentation hearing, must take place within seven days of the removal. However, at this first hearing, the parent does not have the opportunity to tell her side of the story. If the parent is opposed to the removal, she has to schedule another date to appear before a judge. There is no timeline in the *CFCSA* for scheduling this hearing. The date of this hearing depends on a number of factors – the court’s availability and the schedule of parent’s counsel and counsel for the Director. Currently, there are three lawyers contracted to represent the Ministry in Vancouver. Given the busy schedule of parent’s counsel and the fact that the Ministry’s entire court caseload in Vancouver is handled by only three individuals, securing a date can be difficult. The result could be a delay of six to eight weeks. In the meantime, the child remains in care even though no judge has yet considered the reasonableness of the removal.

The *CFCSA* further provides that at the conclusion of the presentation hearing, the court must set the earliest possible date for the protection hearing and that this date cannot be more than 45 days from the conclusion of the presentation hearing. In practice, the commencement of the protection hearing is usually

set at the 45-day maximum without canvassing the availability of earlier dates. If the parent opposes the order at the protection stage, they will have to set another date for a case conference. The length of the delay again depends on the availability of the court, and the schedule of Director’s counsel and parent’s counsel. This leaves some parents without much faith in the usefulness of the court system:

I am very frustrated with the court process. My lawyer tells me that we are going to contest the apprehension but nothing seems to be really happening. We went to mediation but I still have not been able to tell my side of the story before a judge. I was never given an indication of how long the decision making process would take. I feel like the court process has been purposely delayed and that nothing is being accomplished when we got to court.

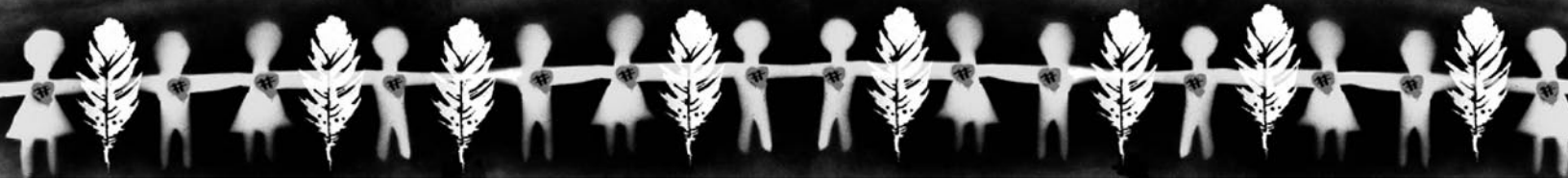
Affidavit #12

The court process is unable to meet the goal of timely decision making embodied in the guiding principles of the *CFCSA*. Goals in legislation are of little value to the families they are meant to protect when the system is not provided with adequate resources to achieve them.

Lack of disclosure

Immediately following the removal of a child, the only documentation parents receive is the Report to Court, which sets out very briefly the circumstances that led to the removal of the child. Section 64 of the *CFCSA* provides that upon request a party to the proceeding is entitled to the orders the party intends to request, the reasons for requesting those orders, and the party’s intended evidence.¹²¹ The leading case on disclosure in child welfare cases, *British Columbia (Director of Child, Family, and Community Service) v. K. (T.L.)* sets out the guidelines for full disclosure. The decision states that it is preferable for full disclosure to be provided by the beginning of the protection hearing and in no case later than a few days before the case conference.¹²² Some lawyers advised that when requested, Director’s counsel was willing to provide disclosure prior to mediation and the presentation hearing.¹²³

Not knowing the evidence upon which the Ministry is relying can make negotiation and early return more difficult. The brief summary in the Report to Court often does not provide enough information to allow the parents to fully respond to allegations. Outside of the court process, social workers make



numerous decisions on a daily basis based on documents in the file that the parent may not see until much later on in the process. This leaves parents unable to immediately challenge the information the social worker is using to justify decisions. The social worker may, for example, refer to previous reports from the community, interviews with their children, interviews with

doctors, or reports of supervised access coordinators, as a basis of her decision. Yet, the parent may not have seen any of these and therefore would find it impossible to respond. This, along with insufficient information about the court process, limited time with lawyers and chronic delays, contributes to the feeling that the court process is unfair and is lacking in accountability.

Alternatives to the Court Process

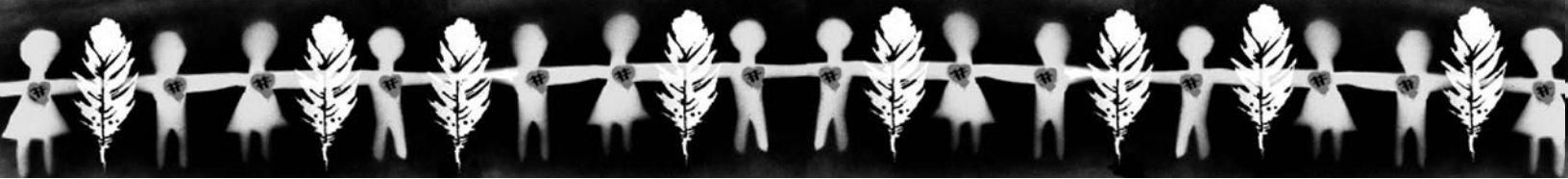
The *CFCSA* provides for some alternatives to the court process for the resolution of child protection matters, including, mediation and family group conferencing.¹²⁴ Neither of these mechanisms can be used to resolve the decision to conduct a child protection investigation, the decision about whether a child needs protection and why, or decisions about resources or services that are not available.¹²⁵

Mediation is a process where the parent, the parent's lawyer, the social worker, the team leader and Director's counsel all meet with an impartial person who is trained to facilitate the resolution of disputes. Other people may be invited to be part of the mediation – such as, extended family members, support people, professionals working with the family, etc. Agreements in mediation can only be made by consent. In Vancouver, it takes approximately

two to four weeks to schedule mediation. It can take much more time when multiple lawyers are involved in the case, as it becomes harder to find an available date.

The goal of family group conferencing is collaborative planning. Families, service providers and other professionals are all involved in the process. One component of the family group conferencing that is unique is that families are left on their own to develop a plan to address a particular issue. Service providers are able to comment on the plan and assist in accessing resources for implementation.

Alternative resolution mechanisms did not figure prominently in the experiences reported to us by the mothers we interviewed. Given the limited information and the relatively new focus on these alternatives, more consultation needs to be done with parents to learn more about their experiences.



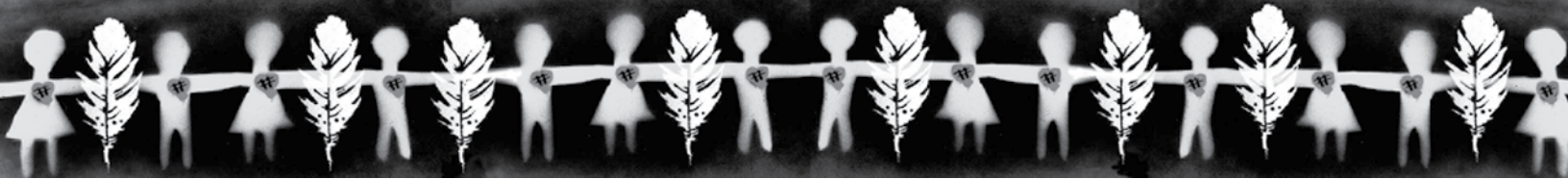
RECOMMENDATIONS FOR PART THREE: THE DECISION MAKERS

The Role of the Social Worker

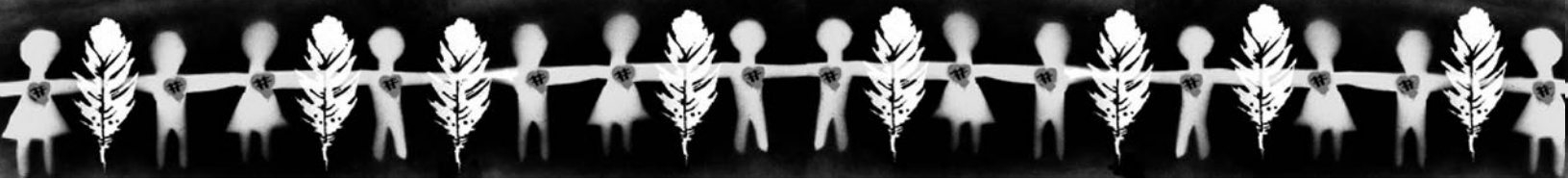
- Social workers should at minimum be required to provide oral reasons for their decisions.
- The complaint resolution process for parents who wish to file a complaint against a social worker must undergo a comprehensive review to assess whether the system provides adequate protection against reprisal and meaningful follow-up to complaints.
- Caseloads for social workers need to be reduced significantly. Large caseloads for social workers are a significant barrier to successful case management and family reunification. Social workers need adequate time to get to know a family and assess their needs, strengths and limitations. There must be time set aside for social workers to witness a family's progress first-hand and to discuss concerns and possible solutions in a meaningful way.
- The dual role played by social workers as support person and investigator erodes trust and collaboration between parents and Ministry staff. It requires that Ministry staff satisfy a range of professional and legal obligations that are, at times, conflicting. To minimize the impact of this structural problem, the number of advocates and social workers who work exclusively as support people must be increased.
- The Ministry must adopt a zero-tolerance policy toward racism, classism and abusive behaviour by their staff.
- There must be protection for “whistle blowers” within the Ministry who come forward to report misconduct.
- Social worker training should better prepare workers to be sensitive to the life circumstances and realities of their clients.
- Ministry files on parents must be more transparent: only a summary of verifiable information should remain on the file when it is closed; parents must be provided with easy and timely access to their complete files; and parents should be provided with a copy of the social worker's notes following each meeting or substantial conversation, and be given an opportunity to verify their accuracy, note any objections, and make changes if needed.

Experiencing the Court System

- Parents must be informed of their ability to obtain legal counsel and how to secure it as soon as there is any risk of removal. Ministry social workers are often in the best position to provide this information.
- Legal aid tariffs and the number of approved hours for each stage of the child protection process should be revised to reflect the complexity and critical nature of the lawyer's role in child protection cases.
- To reduce delay in the court process, the Ministry should increase the number of Director's counsel in areas of the province that have too few. The province should increase the court's resources, staff and number of judges to ensure that cases can be dealt with in a timely way.
- Full disclosure of a parent's file must take place at the earliest possible stage of the court process and must occur on an ongoing basis.



PART ONE – THE CONTEXT
PART TWO – A BROKEN SYSTEM
PART THREE – THE DECISION MAKERS
PART FOUR – VULNERABLE COMMUNITIES
PART FIVE – A VIOLATION OF PRINCIPLES



THE RISK ASSESSMENT TOOL

The role of the child protection social worker is not only to assess past abuse and the immediate safety of a child but also to predict the likelihood of future harm if a child is left in his or her present circumstances. A standardized risk assessment may be used by the social worker during an investigation, a review of the file, or when new information is received about a family.

What is often experienced by parents as a social worker's unwarranted fixation on their past, personal biases or stubborn unwillingness to let a case go even after allegations have been proven false, may actually be the result of structural problems related to the use of a standardized risk assessment tool.

In 1995, the government identified the development of a standardized risk assessment model as “the province’s number one priority in child protection.”¹²⁶ One year later, the British Columbia Risk Assessment Model was released. B.C.’s model is based upon the one originally designed for the New York State Child Protection Service; no significant changes were made to the New York model. This tool continues to be used on a daily basis by social workers in B.C.¹²⁷

Social workers complete the risk assessment by considering a series of factors or “influences” in the parent’s life and the child’s life, such as: information on a parent’s experience of abuse or neglect as a child, the parent’s drug and alcohol use, or the availability of family supports a parent can rely upon. Social workers are given a checklist and are asked to rank families on each risk factor based on a “risk assessment scale” from “4 – high risk” to “0 – no risk” with “9” indicating that information is unavailable. When in doubt, social workers are advised to select a higher ranking.¹²⁸ Social workers, in conjunction with team leaders, assess each score individually and also look at the interaction between factors. A single high ranking factor may be an indication that a child is at risk, as could a cluster of moderate rankings, particularly in relation to a young or vulnerable child.¹²⁹

A social worker we interviewed as part of this project offered an explanation of how the tool is used:

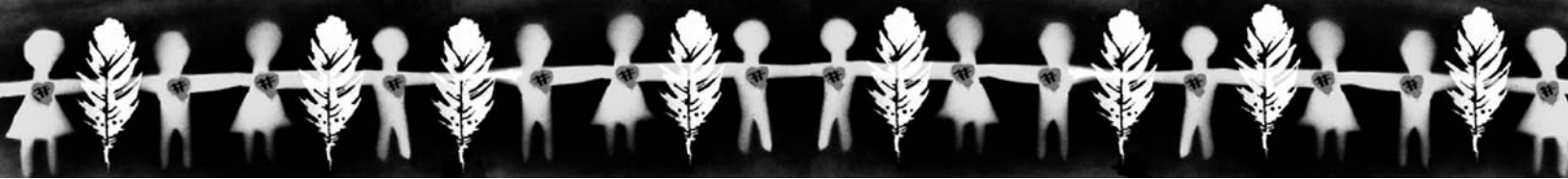
The risk assessments that MCFD (The Ministry of Child and Family Development) uses, they look at various different factors, right? They look at the history of the family, was there violence in your family, was there substance abuse, they look at a ton of different factors and they develop almost like a point system . . . how much violence was in your family? Were you ever spanked as a child? Were you ever diagnosed with this or that? Have you ever suffered from depression? All of these different things are given points. It’s kind of rated on a scale, so if you’re a little high on this side, all of a sudden you have risks.

Interview #3 with social worker

A scientific model to predict risk

The risk management approach to child protection work is not unique to B.C. “Risk thinking” has led to the development of standardized risk assessment models by child welfare departments across North America. The attractiveness of a risk assessment model is its promise to provide an objective, standardized way to scientifically predict risk. Human error and biases are purportedly removed; an assessment is made using probabilities based upon statistically significant factors.¹³⁰

Despite the laudable goal of removing bias from child protection work, there is no research that can confirm that the factors child welfare practitioners believe to be indicators of risk are good predictors of future harm to children.¹³¹ A 2003 review of the literature on child welfare and risk assessments reveals that in practice decisions made using these tools are not reliable and in fact give practitioners a dangerous sense of confidence in their assessments:



In practice, many child welfare professionals are making decisions about children and families with little more accuracy than flipping a coin, while believing that they are using technologies that reduce subjectivity and bias and that increase the quality of decisions.¹³²

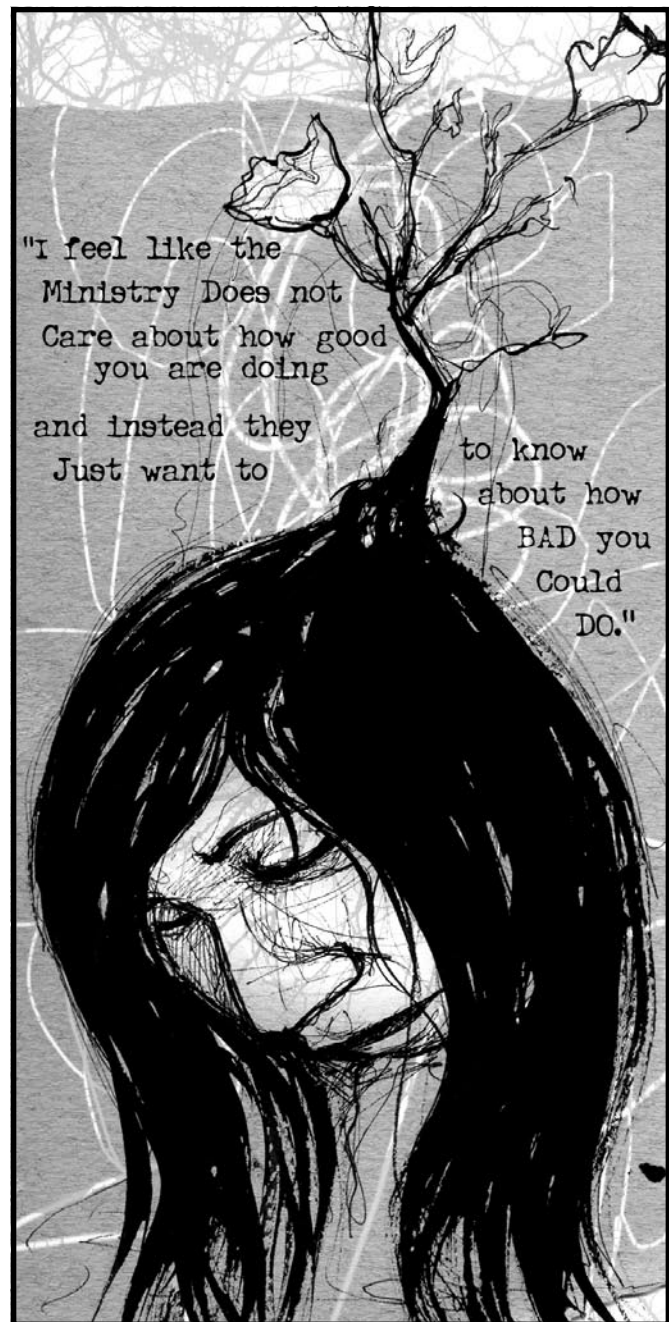
Risk assessment models, cloaked in the language of objectivity, can mask underlying assumptions and biases inherent in child protection decision making. A social worker we interviewed suggested that the risk assessment model does not encourage social workers to work through the instrument with the participation of families in order to better understand the full picture:

It's a terrible tool. It relies on misinformation or "is this parent being honest?" and the outcome is, you get four checks and you're gone . . . and as I said, most social workers I knew would complete those forms without discussion with the parent, and the decision would be to remove the child.

Interview #4 with social worker

The risk assessment tool can be a blunt instrument that reduces complex family dynamics into a series of checkboxes. Rather than treating each family as unique, it extrapolates from general classifications to the particular individual. For example, one variable that is considered is "the child's response to the parent." The social worker is required to rank the child's response from "extremely anxious with uncontrolled fear, withdrawal or passivity" to "child trusts" and "responds to the parent in age-appropriate ways." Parents' interactions with their children are often evaluated during supervised visits when their child is in care. There is nowhere in the assessment that would allow the social worker to take into account the artificial situation in which these families are being evaluated. The checkbox system only provides the social worker with the opportunity to record how the child is responding regardless of any explanations for why this may be the case.

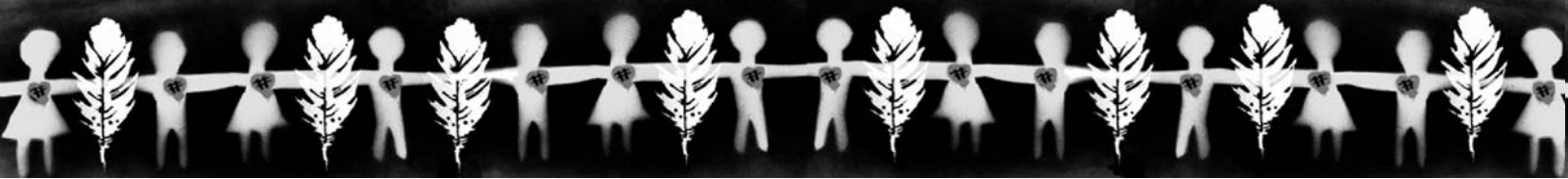
While most parents did not talk about the risk assessment by name, a number of their concerns about how decisions were made in their case implicate the risk assessment tool and its failure to take into account these families' complex and unique circumstances. The risk assessment process obscures the full picture of a family's life by focusing on the past instead of the present, their weaknesses instead of strengths, and the individual parent instead of the social environment in which they are living.



Focusing on the past

A common theme among the parents that we spoke to was a feeling that Ministry social workers "use your past against you":

It seems like they check up on you, it seems to me like that. They want to look at the background of the parents and then, if they



find anything, then the Ministry is right there, that's how it was for me.

Interview #19

I find they judge Aboriginal people more than other cultures just because of the fact of their background and stuff.

Interview #9

[The social worker] just keeps bringing up the past. She won't let me move with the positive things, she just keeps throwing the past at me.

Interview #17

Many mothers felt like no matter what they did, they could not convince social workers that they were willing and able to appropriately parent their children. The reality that part of the risk assessment process is an examination of a parent's own history and not their present actions may be an explanation for this sentiment among mothers.

Social workers are supposed to evaluate any history of abuse or neglect committed by present parents related to other children. Any past neglect, real or perceived, will result in a moderate score. This was frustrating for parents who had lost children in the past but had made significant changes in their lives in the ensuing years:

They told me right off, when I went to see them [about keeping my child] that basically they were starting with the opinion of no, because you already have a child in the system. I mean I can see it playing a factor, if you haven't been able to deal with the reason you lost your child in the first place, you haven't been able to deal with it or get support or rectify that situation, but then they should be giving you support to do that, but it shouldn't be impacting on whether or not you keep your child in the future.

Interview #1

Past abuse and neglect are important to consider in assessing the risk a parent poses to a child. The numerical ranking system does not, however, account for any changes in the circumstances of the parent.

One section of the assessment relates to the abuse or neglect suffered by the parent as a child. Social workers assign a score based on the severity of the abuse suffered as well as disruptions to attachments during childhood. For children who grew up in care, their life history including the factors that led to their apprehension, as well as any subsequent instances of abuse

Monica's Story

Monica is a 24-year-old white mother of a baby boy. She is in a drug treatment facility with her baby. She has never been on income assistance because her parents have been supporting her. As was the case for many of the women we spoke to, a call was put into the Ministry while she was in the hospital after giving birth. She explains:

I was using though most of my pregnancy. That was their main concern. And the father of the baby, like we're still together, and the fact that he knew that I was using throughout the pregnancy, they were concerned about that too.

Interview #32

However, with the help of her family, Monica was actually able to retain a high level of control over the situation. Her son was immediately placed with her mother:

[The social worker] actually said to me like, I was lucky. She didn't just remove him and put him straight into foster care, 'cause she said normally that's what she would have done.

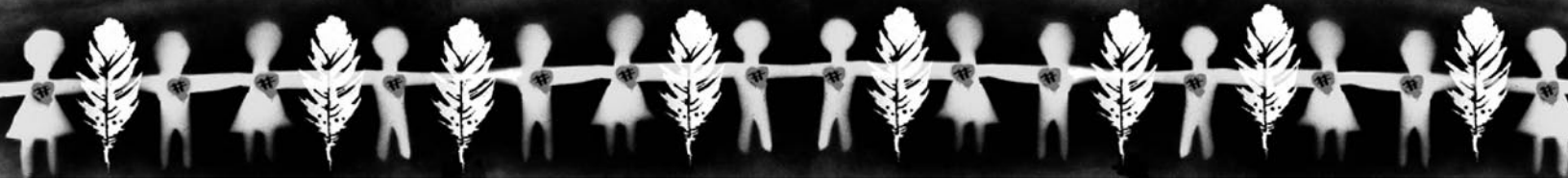
The family developed a plan of care for her son:

Before they had a family reunification meeting, we just kind of had our own and we came up with a plan that we typed out and printed out and we had a bunch of copies. I called the social worker to set up this family plan.

Monica was allowed to be with her son provided her mother or another suitable adult was with her. She has also been able to secure a written agreement stating that she will regain custody as soon as she completes her drug and alcohol treatment program. She explains:

It went really well. [The social worker] agreed to it and I think she was pretty impressed with what a strong family unit we are and how organized we were in getting back together and she was okay with the details.

Monica's story stands in sharp contrast to the stories of many of the poor Aboriginal mothers we have spoken to where drug or alcohol use was the alleged concern.



and the number of different foster homes they lived in while in care, is readily available to the social worker making the assessment. Factors that relate to the parent's childhood negatively impact the outcome of assessments for parents who grew up in state care (whether foster care or residential schools), a disproportionate number of whom are Aboriginal.

Focusing on the negative

Many parents talked about the fact that none of the positive things they were doing in their life were considered by social workers. For example, in the section that considers the mental, physical and emotional health of the parent – ailments are ranked, but nowhere is there an opportunity to evaluate the parent's ability to cope with their disability. This concern was raised by a few of the mothers we spoke to, including an HIV-positive woman:

I am angry because they are assuming that because I am sick I cannot take care of my kids, which is not true. They are telling how this is going to be and how that is going to be . . . I have been sick and I still take care of my kids.

Interview #22

Some parents and grandparents caring for grandchildren felt that the Ministry refused to accept that they had found their own coping strategies to help them parent even where disabilities were present.

Focusing on the individual

A key problem with the risk assessment tool is that it is focused on a parent's individual behaviours without addressing the social circumstances in which most parents involved with the Ministry live. Some of the concerns raised in the risk assessment are not ones that a parent can fix on their own as they relate to their social conditions – like poverty, homelessness and lack of child care.¹³³

A number of “stressors” are identified in the risk assessment tool. While a few of the stressors, such as pregnancy, recent birth, prolonged illness or serious injury are relevant to families across the social and economic spectrum, a number are relevant mainly to a low-income parent including: unemployment or other employment changes, financial hardship, inconsistent child care arrangements, overcrowding and loss of housing.

The risk assessment tool directs social workers to look at the number of stressors present and the extent to which these stressors have strained parenting. Most of the parents we spoke

to had been dealing with ongoing stressors including those listed in the risk assessment tool throughout their lives. In fact, taken together these stressors look like a description of the lives of most poor single mothers.

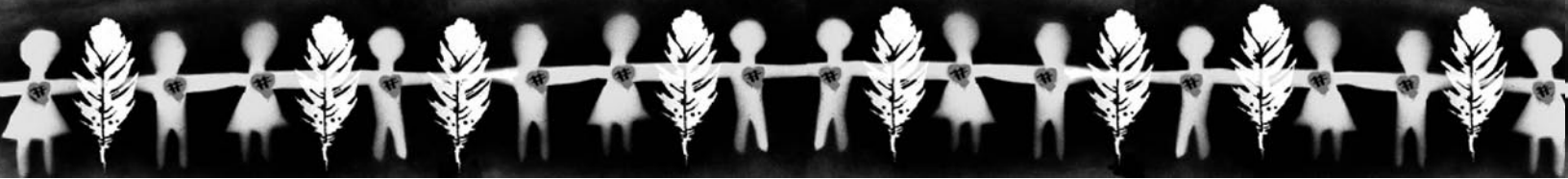
The risk assessment tool also assesses the availability of social supports. Poor single mothers, particularly those who have been in care themselves, normally do not have as many social supports available to them as other parents. Even in cases where two parents may be dealing with identical personal issues, such as substance use, a parent with a supportive and well-resourced family system is likely to be deemed less “risky.”

Social workers also consider a family's living conditions based on episodes of eviction/homelessness and overcrowding, as well as on the number of “hazards” present. Some can be addressed by parents themselves including: dangerous substances or objects stored in unlocked lower shelves or cabinets; unsafe storage of weapons; and no guard on an open window. These are simple problems that could be fixed after a first visit from the social worker. However, a number of the hazards on the list reflect the situation of parents trying to house a family without adequate resources: leaking gas from stove or heating unit, recent fire in living quarters or building, lack of water, peeling lead-based paint, hot water/steam leaking from radiator, broken inadequate heat/plumbing/electricity, and evidence of vermin. Unless the Ministry can persuade a landlord to fix these problems, it is unlikely the parent will be able to solve them on his or her own.

Who are risky families?

In thinking about what groups of parents are more likely to be deemed risky, it is important to keep in mind that removals rarely occur because of physical or sexual abuse. As shown in Figure 4, in the Lower Mainland in 2005, physical harm was cited as the reason for removal in only 10 percent of apprehensions.¹³⁴ Sexual abuse or exploitation by the parent came up as a reason for removal in less than one percent of cases. The most commonly cited reasons for removal were parents unable/unwilling to care (47 percent), followed by neglect (25 percent).

An evaluation of factors used in the risk assessment tool demonstrates that Aboriginal mothers, poor single mothers, recent immigrants, people with addiction issues, individuals considered to be mentally ill or otherwise disabled and victims of domestic violence all have social characteristics that make them more likely to be



deemed “risky” when assessed using the standardized tool. Without any attention to the strengths, present coping strategies and the larger environment in which they live, these groups are likely to continue to be overrepresented in the child welfare system.

The most clearly overrepresented group in the child protection system across Canada continues to be Aboriginal people. In 2005 one in seven Aboriginal children aged 6–18 had been

in care at some point in their lives.¹³⁵ While the number of non-Aboriginal children in care has been declining over the last six years, there has been a steady upward trend in the number of Aboriginal children taken into care.¹³⁶ Involvement of Aboriginal families increases with each successive stage of the child protection process. As shown in Figure 5, while Aboriginal children are only 3.7 times more likely to have a protection concern reported than a non-Aboriginal child, that

Samantha’s Story

Samantha is a 34-year-old Aboriginal mother of two. She grew up in care from the time she was two years old. Her own children were apprehended for a four month period after she violated a provision of a supervision order with a mandatory removal clause. She explains how she feels about the process:

I feel like the Ministry is using my history against me. I feel like they use the information that they know about my childhood to say that I will have problems as a parent. My social worker said to me that she understands that since I was in a foster home myself I don’t always make good choices. I felt like someone was kicking me in the stomach when she said that. It made me feel like she was saying that this is all your life will ever be and that this is all your kids will ever be.

Affidavit #4

The circumstances around the removal of Samantha’s children were very different than the circumstances from which she was apprehended:

I never wanted my children to grow up the same way that I did. My mother had a drinking problem and did not have support in addressing her addiction issues. When my children were taken from me, I had a long discussion with my mom about how we were apprehended. She told me that she was not educated and had signed papers from the Ministry and that she did not understand all of the consequences . . . My mother told me that when we were removed she was at an awful place in her life and the house was a mess and she was in the height of her addiction.

No one had a concern about Samantha’s parenting. She contacted the Ministry on her own because she had a concern about her boyfriend. The Ministry’s response was to put a supervision order in place that put the onus on her to ensure that he was not around the children. Samantha explains that her children did not face any of the risks she had faced as a child:

I am not at all in the same place that my mother was in when she had us. I have finished grade 11. I have been working consistently. I have a really clean three-bedroom apartment. I do not have a drinking or drug problem. I have worked so hard in order to ensure that my children grow up in a healthy and loving home. Yet, my children were still taken from me by the Ministry.

Samantha’s story is an example of how the concept of “parental influence” in risk assessments inadvertently negatively affects Aboriginal people who become involved with the child protection system. Samantha was like her mother only in so far as she is an Aboriginal mother raising children alone on a limited income. But a number of other inferences seem to have been drawn from those similarities despite the wealth of evidence to the contrary. Samantha did not talk about the concept of risk assessment, but she shared an implicit understanding of how risk assessment worked in her case:

I feel like the Ministry does not care about how good you are doing and instead they just want to know about how bad you could do.



FIGURE 4

Reasons for removal of child, Lower Mainland, 2005

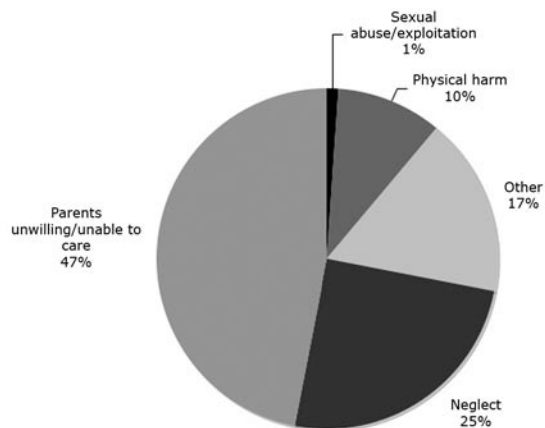
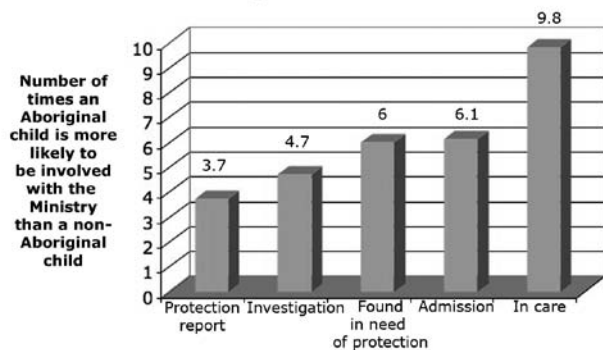


FIGURE 5

Likelihood that an Aboriginal child will be involved with each stage of the child protection system, relative to a non-Aboriginal child, Fiscal year 2006-2007



concern is 4.7 times more likely to be investigated, and the child is 6.0 times more likely to be admitted into care. Once admitted into care, Aboriginal children are less likely to be

returned to their families, resulting in Aboriginal children being 9.8 times more likely to be in care than their non-Aboriginal counterparts.¹³⁷ These numbers raise serious questions about how decisions related to risk are made at each successive stage of the child protection process.

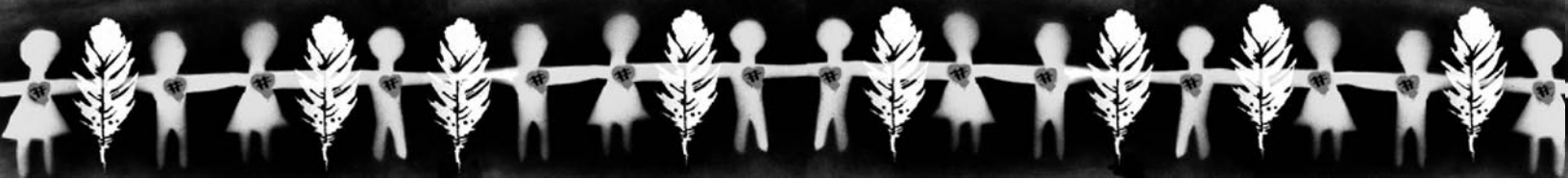
Evaluating risk assessments

The current risk assessment model is designed in such a way that Aboriginal parents and parents who grew up in care are likely to continue to see their children taken into care at a higher rate than other parents. A social worker explains why this is the case:

What the risk assessment doesn't take into account is the historical pattern of Aboriginal families, or where they may come from. For example, if you look at my history I can say "yes there was substance abuse in my family when I was growing up, yes there was domestic violence" . . . but you know, I'm university educated. It does not take into account all of the things I have done in my life to change what happened to my parents or my grandparents. All of a sudden because of all those things that weren't my fault, weren't my parents' fault, weren't my grandparents' fault, I'm going to score higher as a risk. So the current model they are using does not take into consideration all of these systemic things that have happened to Aboriginal people, going back to residential schools and the sixties scoop.

Interview #3 with social worker

The Ministry is actively working to create a new risk assessment tool for British Columbia. In order to be effective, the new tool must take into account the strengths of a family and the systemic barriers for particular groups of parents to be able to effectively raise children. Implementation of an improved tool must also be accompanied by a shift in thinking about what constitutes a social problem and what constitutes a child protection concern, and dedicated resources to address social issues at their root while providing ongoing support to families.



FAMILIES IN POVERTY

Poverty has an inevitable effect on the conditions of a child's life, including a parent's ability to address issues such as child care, housing, domestic violence or addiction. Unfortunately, the Ministry of Children and Family Development ("Ministry") is not empowered with the mandate or the resources to address the poverty faced by so many families throughout the province. Instead, poverty-related conditions are deemed to be "risk factors" associated with a particular parent rather than as problems that stem from low income-assistance rates, a minimum wage that does not bring families out of poverty and a lack of affordable housing.

For so many parents living in poverty, increased financial resources would empower them to improve their lives and the lives of their children. This would, in turn, reduce the rate of child apprehensions in B.C.

Child poverty in B.C.

In 1989, the members of the House of Commons made the unanimous decision to seek to eliminate child poverty in Canada by the year 2000. Child poverty has yet to be eliminated anywhere in Canada but, on the whole, the country has managed to reduce the number of poor children. British Columbia, however, is the only province in Canada to see an increase in child poverty rates since 1997 when the Federal government introduced the Canada Child Tax Benefit.

In their 2006 report on child poverty, *Firstcall*, a British Columbia province-wide coalition of organizations serving children and youth, made the following findings for the year 2004:

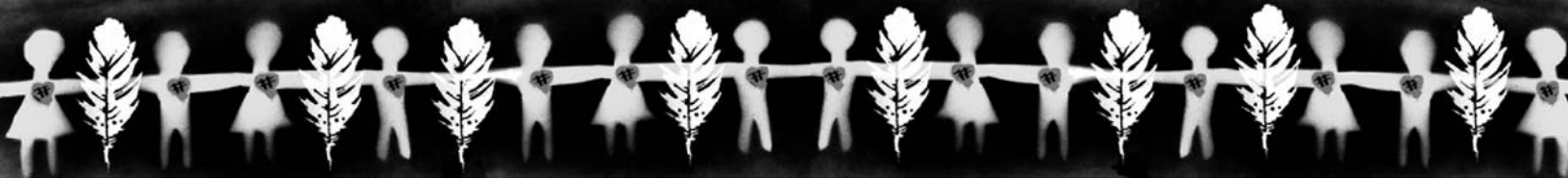
- For the third year running, B.C. had the highest rate of child poverty in the country at 23.5 percent. That amounts to approximately 196,000 poor children in B.C.;
- Not only were almost one-quarter of children in B.C. living in poverty, on average their families fell \$11,000 below the poverty line;
- 62.8 percent of lone mother-headed households fell below the low-income cut off ("LICO") in 2004, compared with

16.2 percent of two parent families. While poverty rates for children in two-parent families have remained relatively stable, poverty rates for lone parent families headed by women rose sharply between 2000 and 2004.

Child protection practices in British Columbia have to be understood in the context of these statistics, which suggest that the government has paid little attention to the needs of vulnerable children and families.

Income assistance and child protection

In 1996, the same year the *Child, Family and Community Services Act* ("CFCSA") was introduced, the provincial NDP government introduced the new *B.C. Benefits Act*. This new social assistance legislation cut benefit rates, introduced mandatory "job club" participation and compelled single parents to look for work.¹³⁸ Despite the cuts to assistance rates and already stringent eligibility requirements, when the Liberal party came to power in B.C. in 2001, they declared that they would put an end the "culture of entitlement" the previous NDP government had purportedly fostered among income assistance recipients and implemented a number of far-reaching changes to income assistance in the province. The goal of these changes was to reduce the Ministry's operating budget by \$581 million, approximately one-third of the entire budget, over a three-year period.¹³⁹



The sweeping cuts, which came into effect in April 2002, included the closure of 36 income-assistance offices across the province and the loss of 459 full-time-equivalent positions. These cuts were justified as the provincial government planned to significantly reduce the number of welfare recipients. Cuts included the following:

- Beginning in April 2002, support rates were cut by \$43 a month for a single-parent family with one child and \$90 per month for single parent–led families with two children.¹⁴⁰ This cut affected approximately 60,000 children, the overwhelming majority of whom lived with single mothers.¹⁴¹
- Shelter allowances for families with three or more people were also cut by between \$55 and \$75 a month, again disproportionately affecting single mothers raising more than one child, most of whom were already dipping into their support payments meant for food and other necessities in order to avoid homelessness.
- The government cancelled the spousal support exemption that had previously enabled single parents to keep \$100 of maintenance payments from former spouses. Now that there are no financial incentives for single parents to seek child support, a new, more coercive system has been introduced that forces single parents to seek support from an ex-partner before they are eligible for assistance.
- A new time limit on receiving benefits was put into place limiting singles to receiving benefits for two out of every five years. For single parents and two parents families' benefits will be reduced by \$100 and \$200 per month respectively after two years.
- Single parents are now expected to work or to return to school when their youngest child reaches the age of three.

Overall, the average government transfer to lone mothers declined by \$2,300 per year between 2001 and 2004.¹⁴² In April 2007, income-assistance recipients saw the first across-the-board increase in shelter allowances since 1992. This increase, in conjunction with a few other changes to how benefits are calculated, will result in an increase in benefits of \$100 per month (from \$846 to \$954) for a single parent of one child classified as “expected to work.” A single parent with five children classified “expected to work” will see their benefits rise by \$175 per month (from \$986 to \$1161). Any single parent classified as “disabled” will see a \$97-per-month increase.

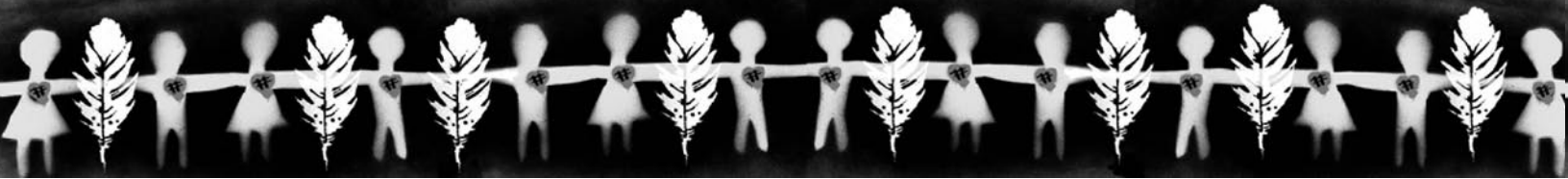
Aboriginal families

Aboriginal people continue to be greatly overrepresented among the poor in B.C. The poverty rate for Aboriginal children is almost twice as high as the rate for non-Aboriginal children, and that figure does not take into account the 20,000 Aboriginal children living on reserve in B.C.¹⁴³ Aboriginal people have been subject to ongoing legislation changes resulting in systemic poverty that affects their ability to maintain custody of their children:

- In 2001, 44 percent of Aboriginal people aged 20 to 24 had less than high school education, as compared with 19 percent for Canada as a whole. Only 23 percent of Aboriginal people aged 18 to 29 reported having completed their post-secondary education, compared with 43 percent in the rest of Canada.
- On reserve, the estimated housing shortage is 20,000 to 35,000 units and growing. Off-reserve, the core housing need is 76 percent higher among Aboriginal households than among non-Aboriginal households.
- In 2005, unemployment rates for Aboriginal people were 19.1 percent generally and 29 percent on reserve, as compared with 7.4 percent for all Canadians; and
- 40 percent of Aboriginal children living off-reserve live in poverty.

While the number of non-Aboriginal children being taken into care in B.C. has declined, the number of Aboriginal children in care has continued to rise. As of November 2006 half of the 9,271 children in care in B.C. were Aboriginal. While only one percent of the child population in B.C. is in care overall, 5.4 percent of the Aboriginal child population is in care. Trends are even worse for Aboriginal children living in the Vancouver Coastal Region, which has the smallest proportion of Aboriginal children of any region in the province but has the highest rate of Aboriginal children in care.¹⁴⁴ Until the inequities between the Aboriginal and non-Aboriginal population are addressed, these trends are likely to continue. However, meaningful moves in that direction have been stalled at the Federal government level.

In 2004 and 2005 an unprecedented process was undertaken that involved negotiations between Aboriginal organizations from across Canada and the Federal government under the direct authority of the Prime Minister with the aim of raising the standard of living for Aboriginal peoples to the standard of other Canadians by 2016. The 18-month process culminated with the First Ministers' meeting in Kelowna in



November 2005. The outcome of that meeting was a \$5.1 billion funding package to be used to address the concerns brought forward by the over 1,000 invitees who participated in at least ten major meetings and numerous smaller meetings leading up to the First Ministers' meeting.

The Federal Parliament was dissolved the same month, before the new monies could be approved.¹⁴⁵ Upon taking office, Prime Minister Harper chose not to honour the deal, claiming that more money was not the solution to the problems facing Aboriginal people in Canada.

Mothers speak about poverty

Many mothers expressed an acute awareness of how their poverty was affecting their children and themselves as parents:

My rent, I was paying \$540 and I only got \$180 extra support on top of that, so I was barely making it . . . I was getting further and further in debt and it was affecting me emotionally, mentally. I was stressed out, I couldn't afford to buy my daughter the things she wanted. I just hated it, my mother was on welfare, I came from a place of poverty I didn't even have my own bedroom until I moved out of my mother's house.

Interview #27

For a number of mothers, it was poverty that led them to call the Ministry:

I wouldn't have had to call social workers if I wasn't poor. I could have paid for it all myself. I wouldn't have needed them, that's the first thing, but you're poor.

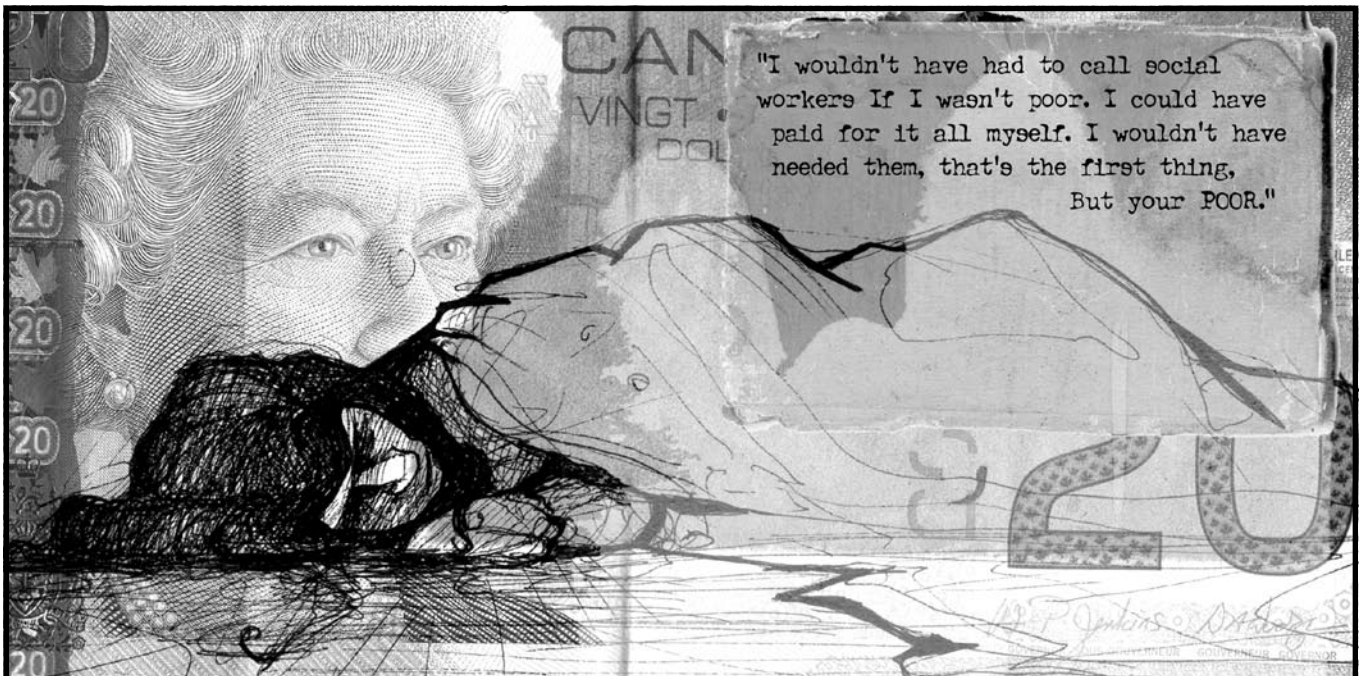
Interview #18

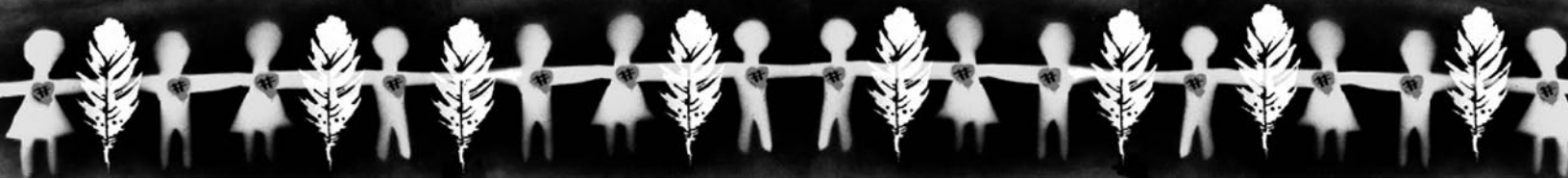
Unfortunately for many children, the only time they experience the material benefits of middle class life is when they are placed in care. Some parents expressed concern that their children were growing accustomed to some of the economic perks of living in care:

They were doing all this stuff that I couldn't afford to do with them, like they'd go take them to a movie, all the time go rafting and camping. You know, all this nice stuff that some people have.

Interview #21

Current income support programs are insufficient to allow parents to support their children with food, housing, clothing, and recreation in accordance with community standards. There is also little political will to enhance these programs because poverty in Canada, like child neglect, is generally understood as an individual problem.





Income assistance policies

Most of the parents that took part in this project rely on government assistance for some or all of their income. The underlying poverty that results from inadequate benefits combined with the pressure to get off welfare creates ongoing difficulties such as poor housing and nutrition leading to crises. This mother recounts the situation a friend found herself in:

Just today I talked to a mother who got a shoplifting charge. She is not on disability; she is living on basic welfare which is absolutely impossible – I have tried it myself and you cannot. If you want to feed your child properly that is absolutely impossible. I went three days without eating every month before welfare day. Right, every day before welfare day there was no food in the house except for my kids and that was very basic breakfast, lunch, supper, snack, that's it. And so she started shoplifting because she didn't have any food. She talked to her [financial assistance] worker and it was like, "No you are not getting that crisis grant" so she needed \$20 to get food . . . so now she is dealing with [the Ministry] because she's got shoplifting charges, it's like come on, she was asking you for help and you didn't help her.

Interview #1

This mother is not alone in terms of being forced into dangerous or criminal activity to support her child due to inadequate assistance rates:

I graduated and had to go on assistance. My whole [income assistance] check went to rent, I was living off of child tax. I had just graduated with a degree and income assistance made me go to a job placement program. The case manager was awful, they treat everyone like a scammer. I had to [get involved with sex work] for a while to pay the bills, I couldn't get help. I'm not even straight (heterosexual) and I would do this to pay the bills.

Affidavit #3

Some mothers manage to find a way to get by on what they receive from income assistance, but it is a constant challenge:

I can't really live on what I get. I don't get child support, like I have to pay my bills on \$275 a month and child tax. I never get caught up on my bills. The money that I do get, it's not enough, but I always manage somehow you know . . . like it gets you through month to month, my son and me and that's all that matters.

Interview #21

In some cases, compounding the stresses of poverty, there are contradictions between the direction that parents get from their MCFD social workers who want parents/caregivers at home and from their MEIA financial assistance workers who want them at work. A grandmother who wants to go back to school while caring for her grandchild and trying to gain custody of his two older siblings expressed her frustration at both the MEIA policy that tells parents they must find work when the youngest child is three, and the MCFD policy that expects parents to be at home with children. At the beginning of our interview she explained:

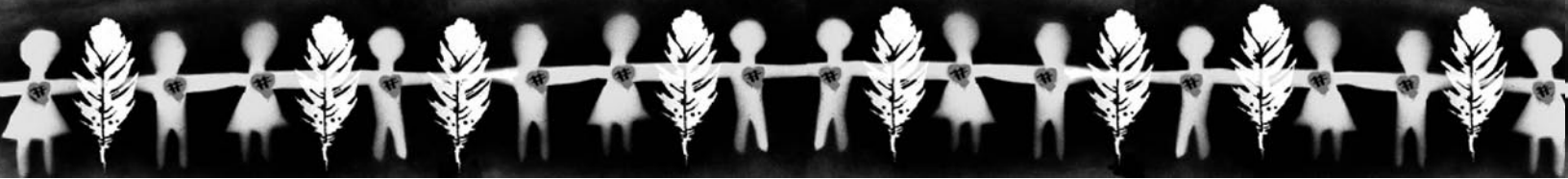
At this moment, I am on income assistance. I get "child in the home of a relative" for a two-and-a-half-year-old, and in June I have to look for work or go to school . . . The policy of the Ministry [of Employment and Income Assistance] is if you have a child who is under three you don't have to look for work, after that age you have to look for work or go to school.

Interview #2

However, her social worker feels that she should not be pursuing an education, but rather that if she takes custody of her grandchildren she should be a full-time caregiver:

[Social workers] at one point said they didn't want to give me the grandchildren because I wanted to pursue my career, my Bachelors [degree] and I was like "what?" They said "well, how can you raise your children and go to school at the same time?" I said "I did it, remember I had two part-time jobs and I still went to school and raised my family for 12 years" . . . Ministry of Child and Family Development is telling me, if I take my grandchildren, that I have to spend the rest of my life looking after them. I said, "Well how can I with policies already written that in June when the youngest child turns three, I have to look for work or go to school, how can you overwrite a policy of the government just because you want me controlled? And who says that I have to live on welfare so that I get \$500 a month to live?"

Another issue for parents who have children removed temporarily is the reduction of their shelter allowance. This means that parents often have to find new housing when their children have been removed. It is nearly impossible to secure housing that MCFD will consider fit for children to visit or live in on a single person's shelter allowance, resulting in longer stays in care for kids:



As soon as a child comes into care, if mom is on social assistance, well, suddenly she's not getting any extra money. So she has to move, she's got maybe \$350 now to rent a place. Well how's she gonna live now? The system is not going to let me send a kid to visit at an SRO (Single Room Occupancy Hotel). Parents who want to visit at the [names a hotel in the DTES] I can't possibly allow that kind of stuff to happen . . . it shouldn't have to be, or everyone crammed into one bedroom, so if the province were able to subsidize housing or whatever the solution is and I had a period of time to work with them, then I could make a real, proper decision.

Interview #3 with social worker

Daycare

Child care is a major barrier for women wanting to pursue an education or paid employment, as this mother explains:

There was a year-long wait-list at the SFU daycare and a year and half at UBC. My best friend made a huge sacrifice; she quit her job so that she could watch my son full time. The Ministry paid \$400 a month for her to watch him five days a week. We were living on less than \$1,000 a month on student loans; myself and a two-year-old. A spot eventually came up at the SFU child care centre. I was paying about \$400 per month above the subsidy rate out of my pocket for child care.

Affidavit #3

Relief for parents needing child care appeared to be in sight with the promise of a provincial-federal government agreement signed in 2005 that would provide \$5 billion in federal funding over five years (2004–05 to 2009–10) to create a quality, national child care system in Canada. However, when the Harper minority government came to power the next year, they broke the child care promise by refusing to honour the new agreement and instead introduced a \$100 per month child care allowance for each child under six. While the Harper government's taxable family allowance will help some families, it does not create sustainable child care spaces or come close to covering the cost of child care for a child under six and offers no child care support to parents with school-aged children.

Parents in our study repeatedly mentioned the lack of affordable child care as both a barrier to leaving income assistance and to engaging in other activities that would alleviate the pressure that they felt as single parents. In fact many of the

parents we spoke to identified child care as one of the biggest concerns in their lives. One mother discussed how her child was removed from what was considered to be an inappropriate babysitter:

I was working at the time when I was pregnant with my youngest child, so I left [my son] with my mom. When mom was babysitting I said "there's no drinking right?" and she said no, there's none. I went home the next day because I was working all night and my son was gone. I was like seven months pregnant and I was just crying, like "where is he?" and he got taken away.

Interview #19

This mother managed to have her son returned fairly quickly, but the situation was traumatic for both of them and could have been avoided either through a universal daycare system or an income assistance system that does not force single mothers to work graveyard shifts.

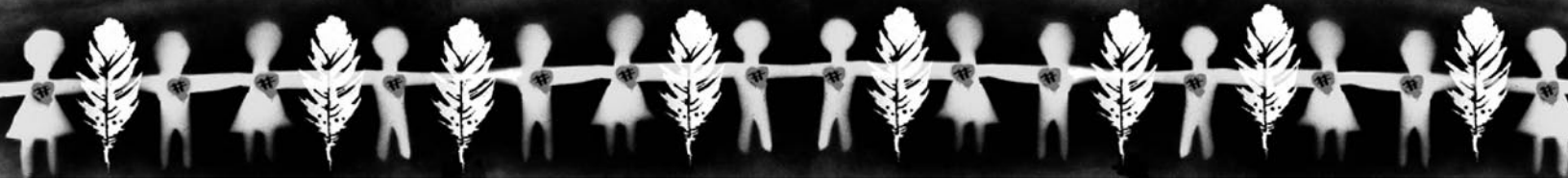
Housing

The nature of homelessness for women and families is unique. The Centre for Equality Rights in Accommodation (CERA) explains:

Homelessness is often equated exclusively with those seen on the streets, predominately men. Although recent data suggests that in cities like Toronto, as many as one in four people living on the street may be women, street homelessness is not representative of most women's experiences. For women with children, living on the street is an impossible option that is almost certain to mean losing their children.¹⁴⁶

In 2000, the Centre for Urban and Community Studies at the University of Toronto replicated a 1992 study that asked front-line family service workers about the housing conditions for families. Specifically, they were asked about the extent to which housing conditions played a role in the decision to apprehend children and the usual length of time that children are kept in care. The study found that the situation for families had worsened in the intervening eight years:

- In one in five cases (20.7 percent) the family's housing situation was a factor that resulted in temporary placement of a child into care. Up from 18.4 percent of cases in 1992.
- The number of children admitted into care where housing was a factor increased by about 60 percent over the eight-



year period: from about 290 children in 1992 to about 450 in 2000.

- In 11.5 percent of cases, the return home of a child was delayed due to a housing related problem. This is an increase from 8.6 percent of the cases in the 1992 study.¹⁴⁷

Housing was a major theme in our discussions with parents and was identified by some as the central issue in their child protection case. As this mother explains:

He really wants to come home and the social worker's talking about it too, about getting him home to me, but my problem is I need B.C. housing or something and it's so hard to get into that . . . I think that's the only thing stalling for him to come home.

Interview #19

Housing has been an ongoing struggle for this mother. Although her current housing is too small, her child can sometimes stay overnight, but even that was dependent on her finding affordable housing outside the Downtown Eastside:

[The social worker's] number one issue was where I was living. I was living on Jackson and Hastings and I never got no overnights when I was on Jackson. Now I've moved, now I get overnights. So I used to live over here and it was fine, the school's not too far, but it's the hookers and the drug addicts around, that's what he didn't like . . . I mean like I'm happy I got these overnight visits now, the thing I'm mad about is why it took so many years for them to give me overnights, I mean just because of the area I live in, you have to use that against me?

Interview #19

Due to the length of wait-lists, finding appropriate subsidized housing is especially challenging for young mothers who need housing when their children are small:

I'm always on a wait-list. I've been on a wait-list for like five years for [subsidized B.C.] housing. And native housing, I've been on their wait-list for a few years already.

Interview #21

The price of rent and the unavailability of subsidized housing restricts poor families to living in undesirable neighbourhoods or substandard housing. This in turn may result in the apprehension of their children or affect the likelihood that a child will remain in care once an apprehension has occurred.

Transportation

Transportation is a barrier to many poor women's full participation in society. Getting children from point A to point B can be a stressful activity. As this mother and grandmother explains:

There is one issue I am going to bring to the table for these single moms, and I know a whole lot of them, I work with them: the transportation issue. [We need to] create something like a moms' transportation service, with built-in car seats. Moms can use that support because I truly believe that is one of the biggest issues to these young moms. They stress out so much in a day because they are expected to do so much out in the community, and I believe that it's due to all that stress about getting around with their babies and their children that creates the breaking point.

Interview #10

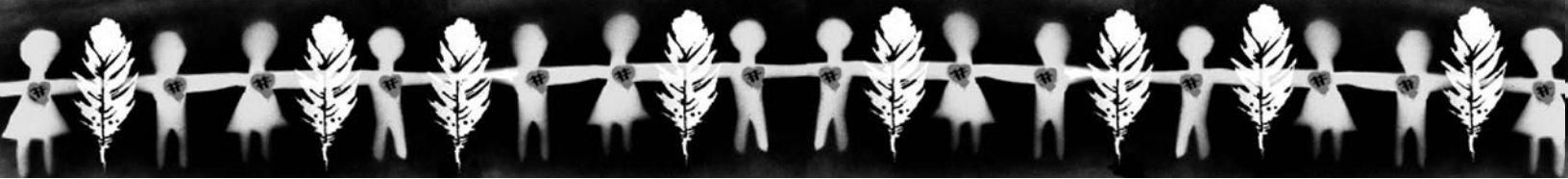
Not only is public transit difficult to use with small children, it is becoming increasingly unaffordable for low-income people, particularly parents with school aged children. TransLink, the body responsible for transit services in Metro Vancouver, has introduced four fare increases since the year 2000, including the January 2008 increase.¹⁴⁸

A few parents identified the provision of bus tickets as one of the few positive and useful aspects of the Ministry involvement. Even this limited resource has been heavily restricted:

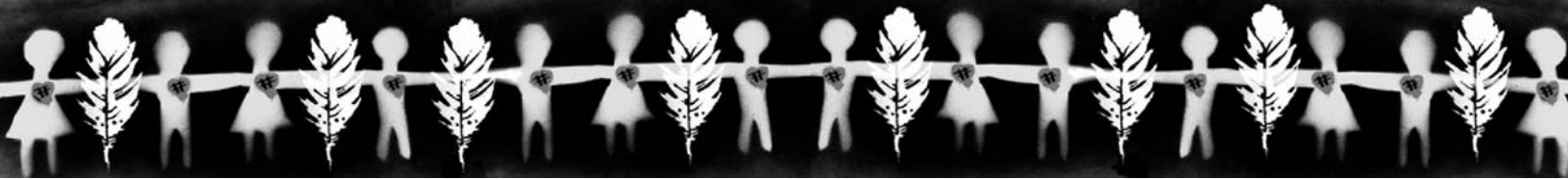
They were helping me with a bus pass and everything and then they gave up on doing that, so I just told them I don't need your services no more, you can just go.

Interview #19

Low-income parents are disproportionately involved with the child protection system. Parents tend to be seen by the Ministry as responsible for the consequences of their poverty on themselves and their children. Poverty can also lead to other



problems that can further augment poor parents' likelihood of becoming involved with the child protection system. In fact, poverty has been found to have a number of wide ranging physical and mental effects, which include vulnerability to acute and chronic ill health, including migraines, clinical depression, stress, vulnerability to mental illness and self-destructive coping behaviours, increased reliance on the health care system, as well as increasing vulnerability to violence and abuse.¹⁴⁹ Protecting children cannot be separated out from protecting mothers and families, which includes ensuring that we live in a society where all people are provided with a decent standard of living. Until the real impacts of current social and economic policies are recognized, changes to the child protection practices will not, in and of themselves, protect vulnerable children from the wide range of harms associated with growing up in poverty.



MENTAL HEALTH AND DEVELOPMENTAL IMPAIRMENT

A parent's inability or unwillingness to care for a child is the most common basis for child apprehension in the Lower Mainland.¹⁵⁰ In determining a parent's ability to care for a child, the risk assessment tool directs social workers to assess the parent's mental, emotional and developmental ability. Social workers are also required to assess the child's mental health and development.

Mental health diagnosis

Most parents who live with mental illness experience stigma, fear and a lack of appropriate support services. For poor mothers, these issues are compounded by the ongoing stressors of single parenting, housing challenges and the income assistance system. With fewer resources at their disposal to help them manage their illness while caring for their children, poor mothers' experiences with their mental illness often go hand in hand with child welfare involvement.

One mental health advocate working with parents who are involved with the Ministry described the system itself as "crazy-making." In some cases, parents reach out for support services or are referred to the Ministry because they are not coping well with depression or anxiety, only to be threatened with or actually experience their child's removal. This is perhaps the most depressing and anxiety-producing situation a parent can go through. Parents are then told that they must improve their mental health or their children will be removed permanently, resulting in a vicious cycle.

Parental capacity assessment

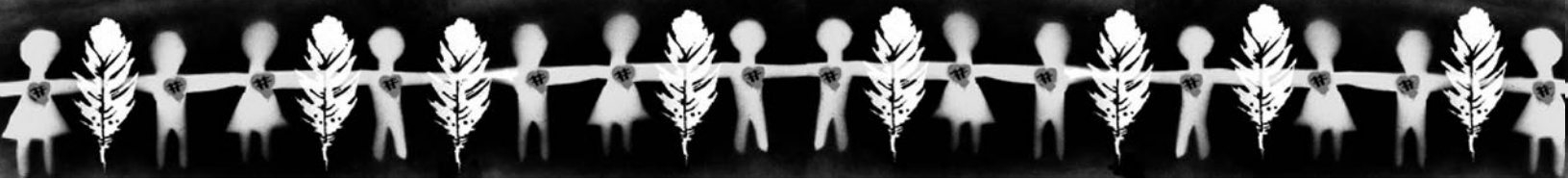
It is not only parents' mental health, but also their "developmental ability" to care for a child that is subject to assessment. Cognitive deficiencies are generally diagnosed either as learning disabilities or fetal alcohol spectrum disorder. Social workers are required to make assessments about a parent's mental well-being or cognitive ability when completing a risk assessment

at the initial stages of the child protection process, often with insufficient information to do so properly. These assessments can then form the basis for an apprehension. Once a child is in care it may take an extended period of time to reach a point in the process where the parent has an opportunity to dispute the original assessment.

Where there is a dispute between the Ministry and a parent over their mental state or their developmental or emotional ability to provide adequate care to a child, the common practice is for the Ministry to request that the parent undertake a parental capacity assessment. A parental capacity assessment has been defined as "a psycho-social examination of a parent's capacity to raise his or her children and assist the children to grow and thrive to the point where they have a reasonable opportunity to be a successful adult."¹⁵¹ These assessments are generally requested in cases where there are concerns related to the social, emotional, cognitive or psychiatric functioning of the parent.¹⁵² They are a topic of great controversy within the child welfare system with lawyers, protection workers and other professionals debating who is qualified to undertake the assessment, what should be included and how much weight an assessment should be given in court.

While participation in a parental capacity assessment is voluntary, some parents felt as though they had no choice but to consent to the assessment:

Originally we were told that it was up to us whether we wanted to have a parental assessment. My boyfriend's therapist told him that we should not agree to a parental assessment but, we didn't



feel like we had a choice as we were told that we wouldn't get our daughter back unless we went through an assessment.

Affidavit #1

A review was undertaken of parental capacity assessments prepared for a medium-sized urban child protection agency in Ontario between 1989 and 2003. The researcher found that

Olga's Story

Olga is a 31-year-old mother of a five-year-old boy. She grew up in the former Yugoslavia and moved to Canada in her early 20s. After giving birth to her first child she was diagnosed with postpartum depression and had a short stay in the hospital when her son was six months old. At that time the Ministry became involved with her family. While she did not feel that she was having difficulties caring for her son after her release from hospital and once medication was provided, the Ministry remained involved:

They offered one woman who was visiting us on a weekly basis. I wasn't satisfied with her services . . . she was complaining that I don't have any pictures on the wall. She was saying to me, are you depressed? Tell me why you are depressed. And I said "No, I am not depressed; I am healthy."

Interview #8

This service provider did not offer Olga any help caring for the baby and Olga felt that she was only coming to check up on her.

Her husband was physically abusive toward her, and she wanted to leave with the baby, but the Ministry staff told her she was not allowed to live on her own with her son:

My main problem with [the Ministry] was that they did not allow me to move out with my kid. I don't really know what the reason was, but they didn't want me to move out, and I had to stay in an abusive relationship.

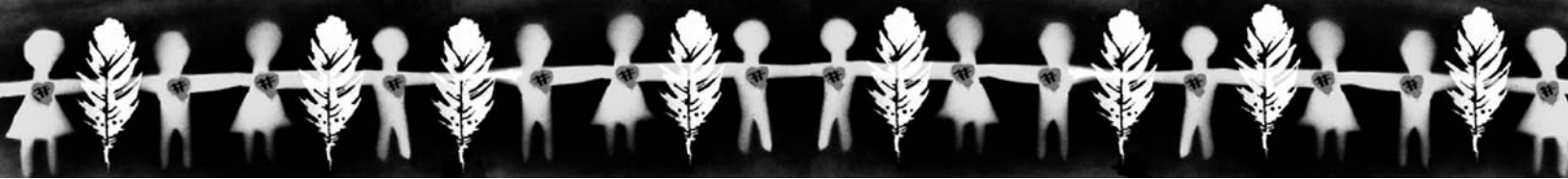
Eventually she was seriously injured by her husband, so she ran from the apartment and called the police. He was arrested, and she was left alone to care for her three-year-old. She secured a full-time job that involved shift work and found herself struggling to get by. The police had called the Ministry and her son was declared "at risk" but was allowed to stay with her provided she take him to a full-time daycare every morning and then find a babysitter to pick him up when the centre closed and watch him in the evenings while she worked. This arrangement had negative consequences for Olga:

It was too tiresome being a full-time employee and full-time mom, so I had a nervous breakdown. I was in the hospital for 23 days. In the meantime my husband took the baby and he was taking care of the baby and the Ministry said the baby was going to be with him now.

Olga's last real contact with the Ministry's social workers was during her stay in the hospital when she was on heavy medication. It has been nearly two years since then and there has not been another assessment of her mental health. She has maintained a full-time job and stable housing throughout this period, but she is only allowed one supervised visit with her son per week. The Ministry told her that the decision to place her son with his father was final and that they were no longer under any obligation to work with her because she was no longer the child's caregiver. She has since begun proceedings under the *Family Relations Act*. She attended a pre-trial hearing in April 2006 and found that the social worker who had said she was there to help her during her bout of postpartum depression was now going to use everything she had elicited from her to deny her access to her son:

The social worker was invited as a witness to our custody trial and she was witnessing against me . . . she said that Ministry of Children and Family have concerns about [my son] staying with me; she said it was concerning my illness.

Although she found appropriate care for her child during her period of postpartum depression and her "breakdown," having been hospitalized for her symptoms more than once has resulted in her being considered a high-risk parent. She is currently on a wait-list for a parental capacity examination but may have to wait up to eight months to be evaluated. In the meantime, her abusive ex-husband retains complete control of her access to her son, which he limits to once a week with supervision.



overall there was a substantial reliance placed on psychometric measures, such as standardized intelligence/cognitive capacity tests. The use of these measures was confirmed by some parents in British Columbia:

The Ministry asked me to do a parental capacity test with a psychologist. It was a very uncomfortable and overwhelming experience and I did not feel like it had anything to do with my parenting skills. As part of the parental capacity test the psychologist performed an IQ test on me. He was asking what I thought the difference was between a lion and a dog. And then he put a bunch of blocks on the table and asked me to take the blocks and make shapes.

Affidavit #12

The research from Ontario warns that “child protection workers should be wary of the false sense of assurance and security that may be reflected in the instruments used to assist in determining parenting when few instruments, in and of themselves, predict maltreatment and parenting accurately”¹⁵³ and suggests that parenting capacity measures should not be given greater weight than the direct observations of child protection workers. However, child protection workers often have little time to spend with families and observe them directly. The frequent changes in social workers working on a particular case also limits a social worker’s direct knowledge about a family, requiring that they rely on information that has been previously recorded in the file, including the outcome of the risk assessment. While other professionals outside the Ministry, such as infant development workers, Aboriginal family workers or parenting program coordinators may be in a better position to assess day-to-day parent-child interaction and parental competence, the observations of these support workers are not always taken into account by Ministry staff.

A number of the mothers we spoke to were in care themselves as children and did not receive needed interventions as children or appropriate follow-up once they reached the age of 19. These parents face a lower chance of reunification with their children after a temporary apprehension, as they often do poorly on conventional parental capacity assessments, as this service provider explains.

You have to take it, but what happens with a lot of our parents with FASD, when they take that parental assessment, even I don't feel that they will pass it, but that doesn't mean that they can't, with the right support, can't parent that child.

Focus group with service providers

One young Aboriginal mother explains how she felt after she did a parental capacity assessment:

They want me to do a parental capacity, and I did one once before with my other daughter and they said that I wasn't ready to protect her from anything . . . It was hurtful . . . That is how I found out I have learning disabilities. They want me to do it again to see if I am able to protect my child.

Interview #12

On the whole, parents felt that parenting capacity assessments, like the risk assessment, focused too heavily on the negatives:

I feel like the focus of the assessment was only on the negative and not on the positive. During this whole time my grandson has been with me, he's doing above average in school, he's athletic and has good humour. But I feel like I am now being judged by how I was 20 years ago and assessed by how my daughter was as a parent ten years ago.

Affidavit #7

Parents also complained that inaccurate or incomplete information from their Ministry file made its way into the parenting capacity assessment:

I did not feel like the psychologist's assessment was focused on my strengths. Instead it was very negative and much of the information was inaccurate.

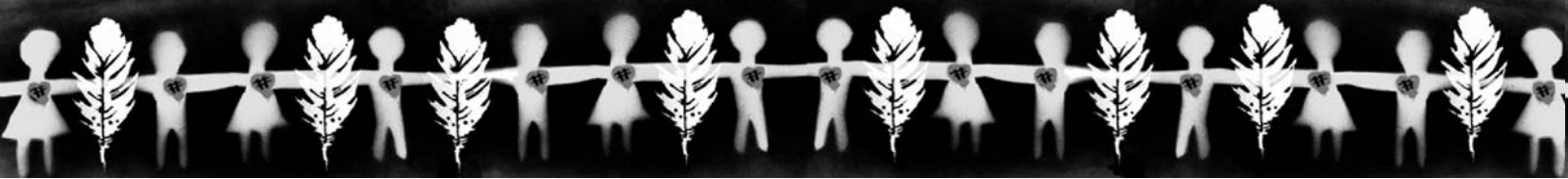
Affidavit #12

Parents also expressed concern that they were not fully informed of what the assessment would entail and how the results would be used:

The Ministry asked for a parental capacity assessment of me, my husband and the couple who wanted to adopt one of my grandchildren. No one at the Ministry explained to me what the assessment would be used for or that it would be used in the future for my other grandchildren. My lawyer told me it was to find out who was the most suitable parent for the child. I felt like I didn't have enough information and that the psychologist didn't know how to communicate with me.

Affidavit #6

Some parents complained that they did not have the opportunity to see their assessment in a timely manner:



The social worker has told us now that she has more concerns coming out of our assessment, but we don't know what those concerns are because we've never been told and we aren't allowed to see the assessment. We can't deal with her concerns if we don't know what they are.

Affidavit #1

The unfortunate reality is that the types of concerns that may be raised by the assessment are not necessarily concerns that can be addressed by the parent. A low score on an IQ test is not something that a parent can readily address.

Some advocates and front-line support workers who participated in a focus group for this project noted that parenting capacity assessments were rarely conducted in a culturally appropriate way:

I wanted to say something about assessments, because I haven't been feeling very comfortable with the parental assessments that have been taking place. I find that the psychologists are very rude, and not very sensitive to the parents, especially to Aboriginal people and culture.

Focus group with service providers

While some parents believe that undergoing a parental capacity assessment will help their chances of having their children returned, service providers claim that this is rarely the case:

I have never heard of any parental capacity that would ever return the child, because of the parent's history and that is all the ammunition that they need. Because if there is anything lingering in that individual's past, if there is any indication of anything in their lives, be it anger, be it . . . anything, then they have all the ammunition they need for not returning that child.

Focus group with service providers

Not only did these professionals feel as though capacity exams were biased against parents and insensitive to where these families came from, they felt as though they were an ineffective use of resources:

You know every time they order parental capacity I always laugh because it costs the Ministry \$6,000 to do these reports, to hire the psychologist. The psychologist spends maybe half an hour to make these assessments, because most of my clients, well all of my clients have mental illnesses, and makes these recommendations and usually the recommendation is not to return to the parents, and I get so mad because I think, \$6,000 could be used for services to reunify the family,

rather than have some guy who spends half an hour with the client saying: "I don't think she should get the children back."

Focus group with service providers

One advocate suggests that the money could be better used on full-time intensive one-to-one parenting support for a three month period. This would ensure the safety and well-being of children while allowing both skill-building for the parent and meaningful evaluation of parenting skills.

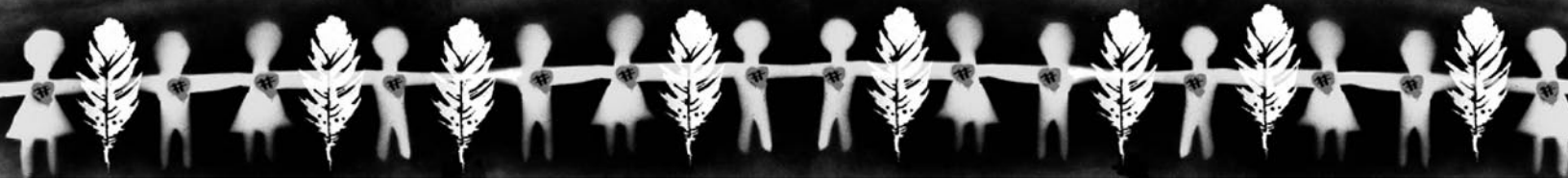
Mental health and children in care

The over-diagnosis of ADHD and related over-prescription of psychiatric medications to children in care was an issue of considerable concern to front-line service providers:

And the level of medication for the kids that go into foster care . . . It's ridiculous. They are all put on medication, they are all over-medicated. They are often misdiagnosed with ADHD. They all have ADHD. The Ministry service plan pays for 15-minute diagnosis. That's it. So the psychologist or psychiatrist is

Community Engagement Project

In 2006, Vancouver Community Mental Health Services released the results of a community engagement project with parents with mental illness. The project involved three focus groups with parents and mental health consumers over a period of four months. Some parents already had children in the system because of their mental health condition. Others spoke of living with the constant fear that if they were to fully disclose the symptoms they experience, their children would be taken from them. A clear message coming out of the engagement project was that when threatened with the removal of their children, people with a mental illness "may not take good care of themselves, denying their symptoms and feeling unable to reach out for help when needed."¹⁵⁴ The project leaders concluded that parents who have experienced mental illness face pervasive prejudice. General fear about mental illness combined with judgment about parenting creates conditions for these parents that are "both punitive and isolating."



diagnosing ADHD within 15 minutes. So, I mean, if the kid is acting up that day, or is hyper or whatever . . .

Focus group with service providers

Children and youth in care are being prescribed psychiatric medications at a very high rate, as reported in 2006 by the Office of the Provincial Health Officer:

Children in continuing care were prescribed mental health-related drugs at much higher rates: for example, they were prescribed Ritalin-type medications at a rate of 8.5 to 12 times higher than were children who had never been in care, and psychotherapeutic agents at a rate 5.5 to 8 times higher.¹⁵⁵

One mother described how her decisions with respect to the medication of her son were not respected by the Ministry:

The reason why the Ministry was involved in our case was that my son is ADHD and he was constantly getting into trouble at school. They wanted to put him on medication and I didn't want that. So anyways, I took him out of school because there were always problems, I took him off the meds. Before they apprehended my kids I had him off the meds for about a month and a half. He was going through really crazy thoughts when he was on it, he wasn't eating. When they apprehended him they put him right back on, they thought, "he's in care now, he might do better," but he's doing worse. They took him away; they kicked him out of school.

Interview #11

Some parents said they felt the special needs of their children and grandchildren were exaggerated, resulting in an increased likelihood both that they would be deemed unable to care for them and that the children would not be challenged to reach their full potential or would be needlessly placed on psychiatric medications once in care.

Misdiagnoses as a child in care could later impact a person's ability to parent his or her own children. Once a child goes into care, any finding of mental, emotional or developmental impairment is recorded in his or her file. If that child later becomes a parent, those records may be used to assess potential risks to his or her infant.

Anna's Story

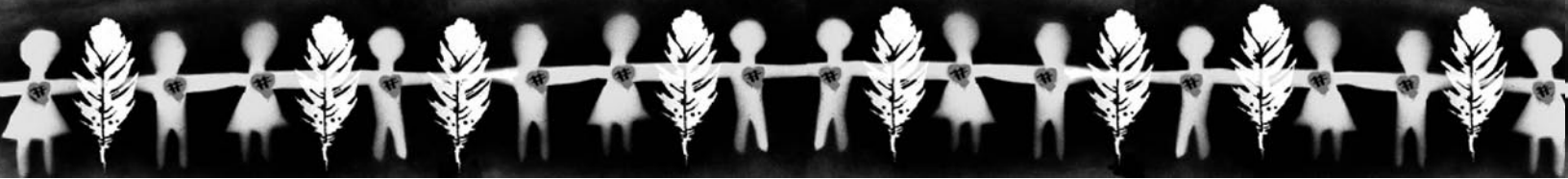
Anna is the 32-year-old mother of a 10-year-old boy. She was adopted as an infant, but as a preteen her relationship with her adopted parents deteriorated, and she ended up back in care at age 12. In her affidavit she describes being in 10 to 12 foster homes between the ages of 12 and 17 and having bad experiences in the majority of them. Anna was placed in homes designated "special needs" because they took in kids that the regular foster homes and group homes couldn't handle. She explained that this didn't mean she got the help she needed:

A lot of foster homes are designated special needs, they get more money. I didn't get any kind of specialized service being in those "special needs" foster homes.

In one home the foster parents refused to acknowledge her feeling of loss when the one box of possessions she took with her from home to home was destroyed. When she took to hiding out in her room, she was labelled depressed and difficult to manage. This resulted in her being medicated against her will:

I was forced to submit to psychiatric treatment during my time in foster care. They put me on an anti-depressant that was putting me to sleep all day. I started refusing to take my pills. The school was calling the foster home saying I was refusing to take my pills. I feel that I was unfairly forced by the social workers, the foster homes and the school to take medication.

While she was forced to submit to psychological treatment to deal with her conduct problems, her routine medical needs were ignored. Anna explained that she did not see a dentist for the majority of time that she was in care, so today she is getting dentures at 32 years old.



FAMILY VIOLENCE

Research on child welfare investigations across Canada in 2003 found that in cases where a social worker felt that there was evidence to indicate that child abuse or neglect had taken place, witnessing domestic violence was the second most commonly cited form of abuse or neglect, accounting for 28 percent of cases.¹⁵⁶ The interaction between violence against women and the child protection system came up repeatedly in our interviews with mothers.

A child is considered to be exposed to domestic violence when they have witnessed violence between parents or caregivers or when the child did not directly witness the violence but knew indirectly that violence had occurred through seeing injuries or overhearing a conversation.¹⁵⁷

Family violence is listed as one of the 23 risk factors that form the core of the risk assessment instrument used by social workers in British Columbia. On the risk assessment scale, family violence in the home is assessed on a scale from “mutual tolerance” scoring zero to “repeated or serious physical violence or substantial risk of serious violence in household,” which scores the highest at four.

The Ministry for Children and Family Development (“Ministry”) developed a set of best practices guidelines for family violence cases in 2004, following a paper written by a partnership of community agencies and health providers. The paper outlined concerns about the nature of interventions by the child protection system in cases involving family violence.¹⁵⁸ Despite comprehensive policy and best practices guidelines on this issue, there remain clearly identifiable problems with how the child protection system intervenes in situations involving family violence.

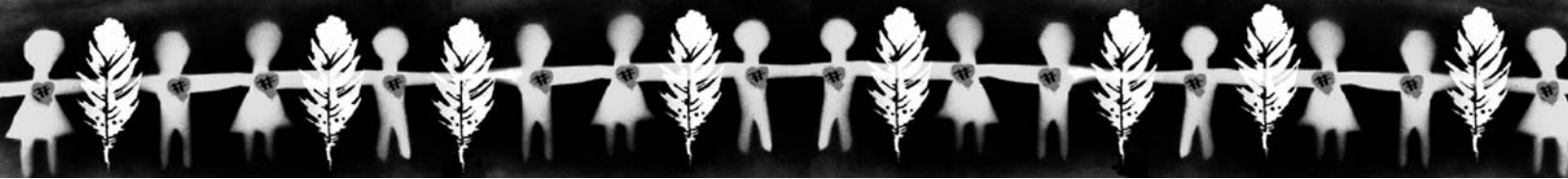
The best practices approach developed by the Ministry addresses a number of important issues related to women living in violent relationships. The best practices guidelines address the dynamics involved in abusive relationships, including the barriers to leaving an abusive relationship; the importance of providing women leaving abusive relationships a set of integrated consistent support services; and a commitment to

providing the necessary supports to ensure the non-abusing partner can keep the child in her care. A number of mothers indicated that these practices were not being followed in their cases.

Failure to understand the dynamics of family violence

It is well documented that a variety of barriers prevent women from leaving violent relationships. Training materials for social workers provide information on these barriers, which include:

- lack of financial resources;
- lack of information about available options;
- fear of retaliation from the abusing spouse, either against the partner or children;
- low self-esteem;
- personal stigma or shame related to family violence;
- cultural and religious considerations;
- belief that she can improve or change the situation;
- having to move (loss of friends, family and connection to community);
- fear of losing custody of the children;
- a belief that it is better to put up with the behaviour so that the children can have a father;
- fear of Ministry involvement;
- not wanting to disrupt the lives of the children;
- love for the offender;
- and a failure to acknowledge that what is happening is abuse.¹⁵⁹



The best practices guidelines also identify these barriers. Yet, a number of mothers felt that their social worker was not cognizant of these barriers and therefore could not understand their situation.

One mother talked about the guilt she felt over not being able to leave her partner when the Ministry asked and the consequences for her son who was put into care two weeks after he was born (on page 104):

U.S. Court Rules Kids Cannot Be Taken Away Solely Because of Domestic Violence

In 2004, New York State's highest court ruled that New York City's child welfare service cannot take children into custody solely because they have witnessed domestic violence against a parent. The class action lawsuit of *Nicholson v. Scoppetta*, No. 113 slip op. 07617 (2nd Cir. Oct. 26, 2004), was filed against the child welfare agency on behalf of battered women and their children. The trial court ruled that the city's child welfare agencies had subjected the victims of domestic violence to "widespread and unnecessary cruelty" by removing children solely because a parent had been abused, and it ordered an injunction to stop the practice. The city appealed, and the New York State Court of Appeals considered three main questions: whether the sole allegation that a child had witnessed domestic violence against a parent constituted a form of neglect, whether the emotional injury to a child caused by witnessing domestic violence rose to the level of imminent danger requiring removal, and whether a child witnessing domestic violence meant that removal was in the child's best interest.

Seven judges decided unanimously that the simple fact of having witnessed domestic violence does not mean that a child has been the victim of neglect. They concluded that children should be removed due to exposure to domestic violence only in the rarest of circumstances, such as if the children were actually or imminently harmed, or if the mother failed to exercise even minimal care over her children. The Court adopted a "minimum degree of care" standard to determine parental neglect – a baseline of care that all parents must meet, regardless of social or economic position. Courts should not look at whether parents made the "right" or the "wrong" decision for their children. Instead, they must evaluate parental behaviour objectively and ask the question: how would a reasonable and prudent parent act under the circumstances? If a parent is a victim of domestic violence, the court has to consider how a parent in that position would act.

The judges decided that courts have to consider whether any means other than removing a child could

eliminate the risks faced by the child, such as providing services to the victim while balancing the risk against the trauma that removal might bring when they determine what course of action is in the child's best interests. The Courts also have to consider the risk to the parent and children of separating from the batterer, of staying and suffering abuse, of seeking assistance through the criminal and social systems, and of relocating.

After the decision, the city decided to settle the lawsuit, claiming that it had improved its practices as a result of the lawsuit. The settlement included the creation of a review process within the child protection agency for parents to complain and receive written responses.

The decision is an important one that will likely guide courts across the United States and can also provide guidance in Canada. Although the court dealt only with the situation where a child was removed due to domestic violence, the court set out some important principles that can be applied to child protection generally: that the risk to a child if he/she is left in the home has to be balanced against the potential trauma to the child if he/she is removed, and that the behaviour of parents in difficult situations should not be judged according to the government's idea of what is the "best" or "perfect" way to parent.

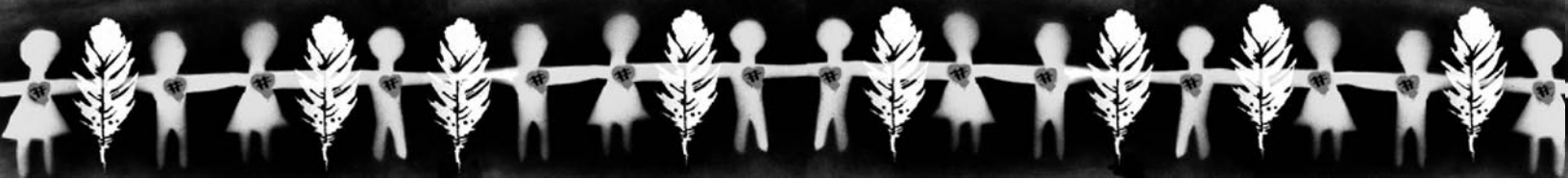
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Leslie Kaufman, "City Settles Suit over Separating Abused Mothers from Children," *New York Times* (Dec 18, 2004)

Leslie Kaufman, "Court Limits Removing Child when Mother is Abuse Victim," *New York Times* (Oct 27, 2004)

National Council of Juvenile and Family Court Judges, Family Violence Department. "Class Action Lawsuit Successfully Challenges State Agency Policies," *Synergy* (vol. 9, no. 1, winter 2005).



. . . they didn't understand what I was going through. They only seen what they saw and they saw not much, yet there was a whole lot behind it.

Interview #19

This mother, as well as many others, felt that the social workers at the Ministry failed to understand their situation or only understood them in a very superficial way. There was also a sense among mothers that their social workers were judging their behaviour and failed to recognize the strategies they had developed to protect their children from the abuser.

Failure to find the least disruptive alternatives

In general, removals are supposed to be the last resort in the child welfare system. This is particularly the case in situations where one parent is a victim of abuse and has not directly harmed the child. The best practice approach recommends avoiding removals and relying instead on supports to ensure that the children are in a safe environment with their mother.

The following mother describes the reasons underlying the removal of her two children. In this case, the removal was not precipitated by violence in the home but rather was due to contact between an ex-partner and the children where this contact was prohibited in a supervision order. The mother had been abused by the ex-partner in the past. While the removal did not stem directly from domestic violence, it demonstrates the social worker's failure to understand that this mother was not provided with supports and options, despite the Ministry's involvement, and as a single mother working at a minimum wage job, she had little choice but to contact her ex-boyfriend for help. Instead of working with the mother to ensure that she was adequately supported and was not put in the position of having to rely on an ex-partner, this mother's children were removed. This approach does not recognize the reality of her circumstances and the barriers she encountered in getting this ex-partner out of her life:

The social worker told me that the reason she had to remove my children was because my children had contact with an ex-boyfriend who the Ministry had concerns about. A few months prior, a supervision order, with a mandatory removal clause if my children had contact with this ex-boyfriend, was ordered. I know that I made a misjudgment when I relied on my ex-boyfriend for help but I do not feel like the Ministry really understood my situation. I made all the necessary changes in my

life in order to ensure that I was not put in a situation where I would have to rely on my ex-boyfriend again. The Ministry did not help me with this process.

Affidavit #4

This mother went on to note that the Ministry required her to attend counselling in order to address her tendency to have relationships with men who were not good for herself or her children:

One of the issues that the social worker raised was that they felt that I was displaying a "pattern of relationships" and choosing to remain with men who are not good to me or my children. They wanted me to seek counselling for this.

She went on to say:

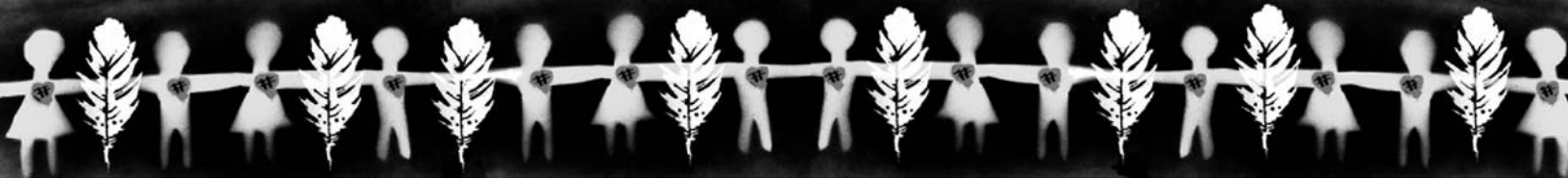
The social worker told me that they wanted to wait to return until I had done counselling to address my pattern of being with men who are not good for me. There was not a clear timeline. At that point, I was not discussing with my doctor this pattern; my sessions with my doctor were focused on how I was coping with not having my children with me.

A few of the mothers we have spoken to have been asked to attend counselling to address their patterns in intimate relationships. This mother identified the difficulty with requesting mothers to do this counselling when their children are not with them. The focus of the counselling inevitably ends up being on the immediate crisis the mother is facing, which is the impact of the apprehension and not on her relationships with men. Counselling for these types of issues is a long-term process and is an inadequate barometer for determining when a child can go home. This mother could have been provided with all of these supports while her children were with her; instead a supervision order was in place without any services or resources attached to support the mother in leaving the violent relationship while meeting her children's needs. The end result was the children's removal.

Lack of effective support services

The Ministry's best practices approach to family violence states:

When mothers are the non-abusing caregivers, child protection workers should provide coordinated, culturally sensitive and, whenever possible, voluntary support services to them to enhance their own safety and that of their children.



Unfortunately, a number of mothers' stories demonstrated that there are major gaps in services for mothers trying to leave abusive relationships and that protocols for cases involving domestic violence are not being followed.

I believe that my file was first flagged for MCFD (Ministry of Children and Family Development) involvement while I was pregnant with my daughter. The baby's father kept coming to me and asking me for money. When I said no, he broke my hip. I believe that it was at that point that my file had been marked. No one from the MCFD talked to me about it during my pregnancy. After he broke my hip, I tried desperately to move so that the father of my baby would not know where I was staying. I had no support.

One of the conditions of the agreement was that I had to ensure that the father of my baby did not have access to her. The social worker advised me at the time that if I called the police they would not apprehend.

In October 2006, I went to the police asking for a no-contact order from my daughter's father. He was charged with uttering threats, but a no-contact order was not put in place. At the time I was under the impression that there was a no-contact order in place.

My baby's dad got into the apartment in November 2006. I called 911 and left the phone off the hook, and the whole call is on tape. The baby's dad has admitted to sneaking into the building and hitting me. When he got in I grabbed the baby and a bottle, and I took her upstairs to feed her. I came back down about half an hour later. When I came back downstairs I heard people in my place. I burst in and it was the cops. My place was trashed.

Affidavit #8

At that point the police took her child and put her in the care of the Ministry.

The mother went on to explain that she does not know how she can prevent her ex-boyfriend from abusing her and contacting her. She views the Ministry's apprehension of her child as an indication that she is to blame for her ex-partner's violence. She has not been offered the adequate supports to deal with his violence:

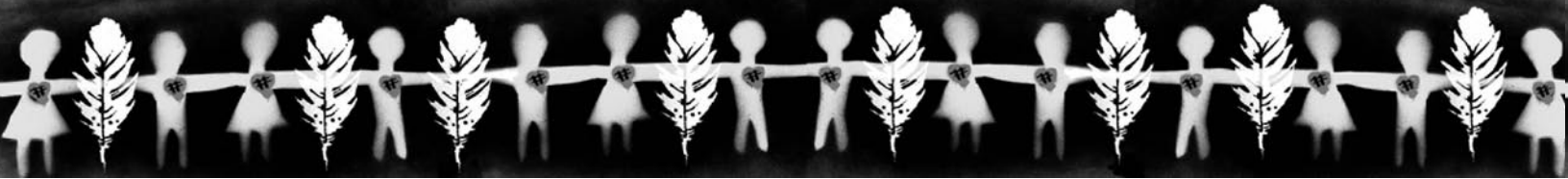
I am at a loss as to what I can do to get my baby's dad out of my life. The police witnessed that he threatened to kill me. He was only charged with breaches again. He is already out of jail for the break-in, and I still don't have the baby back. The father of my baby got the right to a quick court hearing for his criminal matters, and I have been waiting over eight months to go to trial over the apprehension.

When services are available, they are often provided in a contradictory way – as one mother describes, the violence of her partner was her fault in the Ministry's eyes, yet she was considered to be a victim by the women-serving organizations she was accessing:

I'm married, but I'm separated at the time, and all of my kids are with the same father . . . we had violence in our family, our fighting turned to violence physically. The Ministry was aware of that . . . when you're the victim of domestic violence it ends up being your fault, where the Ministry's concerned. The social worker she said "you chose poorly with men so we are always going to be concerned with you now" . . . I find with social workers in the one world (in women-serving organizations) you're the victim and next . . . in the Ministry's eyes its your fault for letting your life get like that without even knowing it . . . I'm frustrated.

Interview #31

The Ministry has developed a set of excellent protocols and practices to address cases involving family violence. These practices are not being followed. Mothers in this study who had been in violent relationships indicated that the child protection system was not sensitive to their needs. In particular, they felt there was a failure on the part of social workers to understand the dynamics involved in abusive relationships, and a lack of adequate supports for women attempting to leave violent relationships.



DRUG AND ALCOHOL USE

In 1996 a young pregnant woman in Manitoba suspected of using solvents was ordered to be confined in a treatment facility until she gave birth. A year later the Supreme Court ruled that a pregnant woman cannot be forced into treatment or otherwise confined for the protection of a fetus.¹⁶⁰ The court held that an unborn child does not have “legal personhood”; therefore, the state cannot apprehend a child prior to its birth to protect it from harm.¹⁶¹

While Canadian women cannot be criminally sanctioned for substance use during pregnancy, there are other sanctions that may prevent women from seeking prenatal care or maintaining open communication with primary health care providers. The most prevalent of these sanctions is the apprehension of their children once they are born.

Even though the Ministry has no mandate to protect a fetus from harm *in utero*, the forward-looking orientation of the legislation suggests that babies can be removed from the hospital in situations where a mother used drugs during her pregnancy.

Unlike Alberta, where the category “drug-endangered child” is enshrined in legislation, in British Columbia drug and alcohol use by a child’s mother or primary caregiver is not listed in the *Child, Family and Community Services Act* (“*CFCSA*”) as grounds for finding a child in need of protection. However, section 13 includes two provisions that may be relevant in cases where a parent is using drugs or alcohol:

s.13 (d): If the child has been, or is likely to be harmed because of neglect by the child’s parent;

s.13 (h): The child’s parent is unable or unwilling to care for the child and has not made adequate provision for the child’s care;

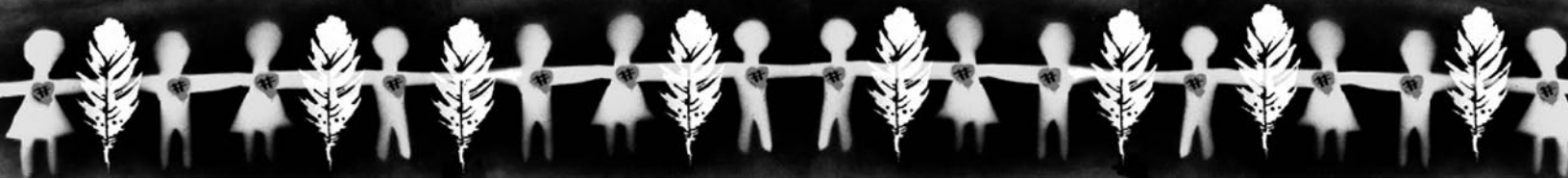
While the *CFCSA* does not make any explicit reference to drug or alcohol use, it is widely understood that part of a social worker’s job is to detect and evaluate problematic substance use among their clients. Based on those evaluations they are expected to make decisions about whether or not a child

should remain in the family home. In a survey of child protection social workers in B.C., they estimated that 69 percent of their cases involved substance-using mothers.¹⁶² Even though social workers are expected to work with families affected by substance misuse on a routine basis and make important decisions relating to the care of children, workers who completed the survey also self-reported as having relatively poor knowledge of theory related to problematic substance use.¹⁶³ Currently, little training related to substance use is provided for new social workers at B.C. universities or by the Ministry.¹⁶⁴ Overall, social workers reported that they needed more information about issues related to substance use.

Many of the women we spoke to self-identified as being addicted to alcohol or drugs. Some were actively using at the time we met with them and others had been abstinent for varying lengths of time. Many of the mothers we spoke to had been brought up in homes and communities where drug and alcohol were widely used or in group homes where early drinking and drug use provided them a sense of belonging. A number of women we spoke to turned to substances to deal with unaddressed emotional pain or to cope with domestic violence. The primary emotions expressed by mothers in relation to their substance use were those of guilt and self-blame:

I mean obviously when you make a mistake that large, you know I’m certainly not going to blame it, I am involved there and I mean it started with me and it ended with me.

Interview #1



While many mothers acknowledged that there were periods of times during the height of their addiction where they were unable to effectively parent their children, many of these women also employed harm-reduction strategies to minimize the impact of their substance use on their families. However, mothers felt these strategies were rarely recognized by social workers. Women also expressed serious concerns about the process through which the Ministry identifies substance-using mothers; the assumptions that social workers make about them as parents; the impacts of an NAS or FASD label on children; and the lack of supportive services for women and families with problematic substance use before and after children are removed.

Identifying substance-using mothers

The 2004 the National Canadian Addiction Survey found that 79.3 percent of Canadians reported drinking alcohol in the prior year. Only 7.9 percent of Canadian women and 5.6 percent of Canadian men reported that they had never used drugs or alcohol. This figure does not take into account over-the-counter or prescription medications including tranquilizers, opiates and anti-depressants.¹⁶⁵ However, not all drug and alcohol use is perceived in the same way by the child protection system.

A number of Aboriginal mothers felt as though the Ministry assumed they were addicted to drugs or alcohol when they went into the hospital to give birth. One mother with a two-year-old daughter in care described her experience:

I think that the Ministry became involved in our lives because [the hospital] reported the birth to them. I think it says on my Ministry file that I am addicted to drugs . . . I am not addicted to drugs or alcohol and I never have been. I do not drink or smoke cigarettes. The Ministry has never asked me to take a drug test.

Affidavit #1

While the initial concern about drug or alcohol misuse was unfounded in this mother's case, it served as an entry point to begin an investigation. Through the investigation concerns about her housing situation and her partner's past were raised. This resulted in ongoing Ministry involvement and the ultimate removal of her daughter based on alleged domestic violence in the home.

Discussions with parents and service providers suggest that many social workers start from the assumption that there is a drug or alcohol problem when working with Aboriginal people

and that any alcohol use among Aboriginal people is regarded as problematic. This reflects long-standing biases about Aboriginal people's ability to drink responsibly.¹⁶⁶ Family members of Aboriginal children looking for kinship placements reported that any alcohol use by adults in the home was used as grounds to deny a placement even where there was no history of drug or alcohol abuse – a standard that some in the Aboriginal community reported feeling is not applied to non-Aboriginal care providers.

The risk assessment tool directs social workers to look at the impacts of drug use (such as abandonment of social responsibilities and impacts on parenting) rather than at the consumption of the drug as the problem. In reality, drug tests, rather than assessments of parental functioning, are routinely used in child protection cases. While drug testing is technically voluntary and many mothers are happy to be tested in order to put any fears to rest, refusal to take a test voluntarily or missing a test may be counted as a positive (drugs present) result. A lawyer working in the child protection system explained:

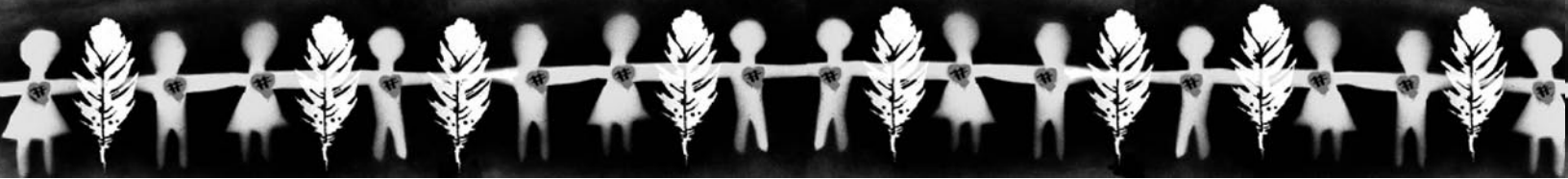
The Ministry has a standard policy that missing a drug test, or refusing a drug test, they count that as you're using.

Focus group with lawyers

Often after passing a number of urine tests, or a test on their infant coming back clean (drug free), women were asked to submit to a hair follicle test. While urine tests can only detect substances used in the past 24 to 72 hours and do not accurately record the amount of a substance used, hair follicle tests can detect drug use dating back approximately three months (often longer with longer hair) and provide more specific information about the quantity of the substance consumed and patterns of drug use over time.¹⁶⁷

Impacts of NAS/FASD labeling on children

A mother's substance use during pregnancy not only impacts how she is seen by society but also how her children are perceived. A number of the women we spoke to had children labelled with either fetal alcohol spectrum disorder (FASD) or neonatal abstinence syndrome (NAS). These diagnoses affect both the likelihood that a mother will lose custody of her child and the type of care the child will receive in the foster and educational system. While some mothers accepted the diagnosis, others felt that these labels were erroneously applied to their children. A number of mothers were concerned that a



Myths and Realities of FAS/NAS Diagnosis

Fetal alcohol syndrome is a medical diagnosis applied to children “who show physical and/or neuro-developmental characteristics that are associated with—many would say caused by—women drinking alcohol during pregnancy.”¹⁶⁸ Descriptions of fetal alcohol syndrome first appeared in medical journals in 1968, when a French doctor released a number of studies she had conducted with children born to “alcoholic” mothers. In 1973 the syndrome was named “fetal alcohol” by researchers in the United States. While there were three variables common to all the women in the American research – “heavy drinking,” “poverty” and “involvement with the welfare system”¹⁶⁹ – the last two variables have never been accorded significant causal weight in studies of FAS. Thus, despite public health warnings that FAS is a risk to all pregnancies, the syndrome is predominantly diagnosed among the children of poor Aboriginal women. Recently, a new non-diagnostic umbrella term, Fetal Alcohol Spectrum Disorder, has been developed to encompass a wider range of pregnancy outcomes. FASD incorporates FAS, fetal alcohol effects and other alcohol-related birth defects.

Neonatal abstinence syndrome was first diagnosed and reported in 1979.¹⁷⁰ While research suggests that there is a correlation between maternal narcotic use and low

birth weight, preterm delivery, and sudden infant death syndrome, the only symptom specific to a mother’s use of heroin or methadone is withdrawal, which is transitory, and not all babies exposed to these substances in utero display symptoms. At the same time, the diagnosis of withdrawal symptoms seems to be dependent as much on the beliefs of medical staff as on the physiological effect of substances on infants. In Canada and the United States, the number of infants requiring treatment for withdrawal has been cited at between 60 to 95 percent of the total number of infants prenatally exposed to drugs, whereas at the Women’s Reproductive Health Service of Glasgow only 7 percent of infants prenatally exposed to drugs require treatment for withdrawal.¹⁷¹ While it has been suggested that babies exposed to cocaine may also experience withdrawal symptoms, a number of studies have not been able to detect any differences between exposed and non-exposed infants. Behavioural and attachment problems are often associated with children who have been exposed to cocaine; however, it has been found that the behaviour difficulties of children exposed to drugs are no different from those exhibited by other children from economically and socially deprived backgrounds. Currently, there are no published studies of middle- and upper-class cocaine-using mothers and their babies against which to compare the findings.¹⁷²

misdiagnosis or overstatement of the extent of a child’s disabilities had a number of negative implications for their families.

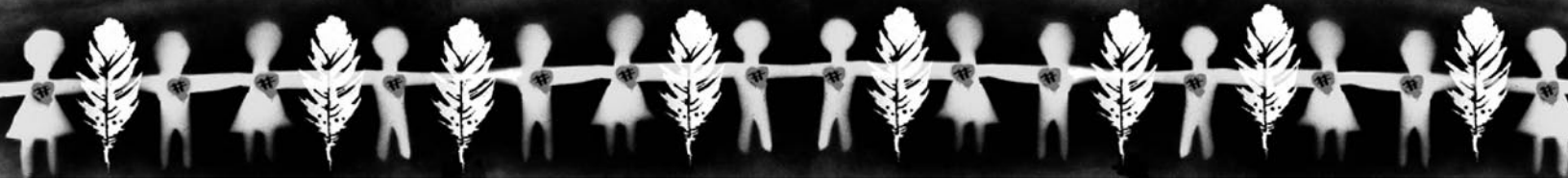
Having a child diagnosed with FAS or NAS can be a double strike against the natural mother when dealing with the child protection system. First, using drugs or alcohol during pregnancy may be interpreted as evidence that the mother cannot control substance use to the extent needed to protect the child from future harm or neglect. Secondly, because the child is now labelled as “special needs” her ability to meet those needs may be called into question even if she successfully recovers from her addiction. Even non-substance-abusing family members can be denied custody of children with these diagnoses, not because these adults are not fit to take care of children in general, but because they are not seen as having the expertise needed to care for children with these special needs.

The label NAS is recorded on public health and school records and on foster care and adoption lists. The child and

parent are stigmatized regardless of whether the label is correct. Unfortunately for mothers and infants, when medical practitioners assess risk they are usually overly cautious and rarely remove “high risk” labels, even if evidence to the contrary presents itself.¹⁷³ One of the major concerns cited by mothers with children labelled NAS is that assumptions about maternal drug use led to unrelated conditions going untreated in their infants:

They said that [my newborn daughter] was going through withdrawals. But how could she be going through withdrawals when I wasn’t on drugs? Then, my mom picked her up, took her to Saskatchewan and the doctor did a physical. The doctor actually dislocated her hip. The doctor had induced labour. Then it was like a forceful delivery, like they tried forceps, vacuum, stuff like that, and in the process they dislocated her hip, so this was why she was crying and stuff.

Interview #7



Service providers confirmed that misinterpreting signs of injury or illness as symptoms of withdrawal is an ongoing issue in cases where a mother has used or is suspected of having used drugs during her pregnancy:

I do have another major frustration with the MCFD, and that is when it comes to substance use issues, and foster parents assuming that a child in their care is in withdrawal. There is documentation of a child dying from something completely different because the foster parents thought that that baby was in withdrawal.

Focus group with service providers

Another concern expressed by mothers and other family members involved in the lives of children labelled with FASD or NAS was low expectations of these children. An infant-development worker working with women who have had problems with substance abuse notes that a large part of the service that her organization provides is conducting alternative developmental assessments. She explains that their assessments often conflict with those provided by Vancouver Infant Development or other agencies:

They see the child as FASD or as neonatal addicted or whatever. Whereas we, one-on-one with mom and baby, do an assessment. We can see that the baby is normal, average, where baby should be. And we have to sit in on meetings and say “but look at this baby, and look at this positive interaction, and all of the responding, it’s great.”

Focus group with service providers

In cases where children are placed in foster care, these labels can have devastating consequences as children may not be given the opportunities and encouragement that they need to develop to their fullest potential. Low expectations and the exaggeration of the extent of a child’s special needs may be used to deny family caregivers custody of these infants. The rate of apprehension combined with the decreased likelihood that children labelled as NAS will be adopted leads to a greater risk that these children will spend their entire childhood and adolescence in the foster care system.

Failure to recognize parental efforts

While many parents employed harm reduction strategies in order to keep themselves and their children safe, they often felt that these strategies went unnoticed. The most commonly cited

strategy was limiting drug and alcohol use to times when the children were out of the home, or when there was a non-using adult present. However, a number of women reported that their children were removed from precisely these sorts of situations. Some women also reported significantly decreasing drug use, switching to a less powerful drug or onto a methadone maintenance program as harm-reduction strategies.¹⁷⁴

Other mothers explained that it was their desire to get help for their drug use that led to them becoming involved with the Ministry. Some of these mothers signed voluntary care agreements hoping to get time to work on their own recovery only to find that treatment and other needed supports were not available or that the Ministry was unwilling to return the children when the agreement expired.

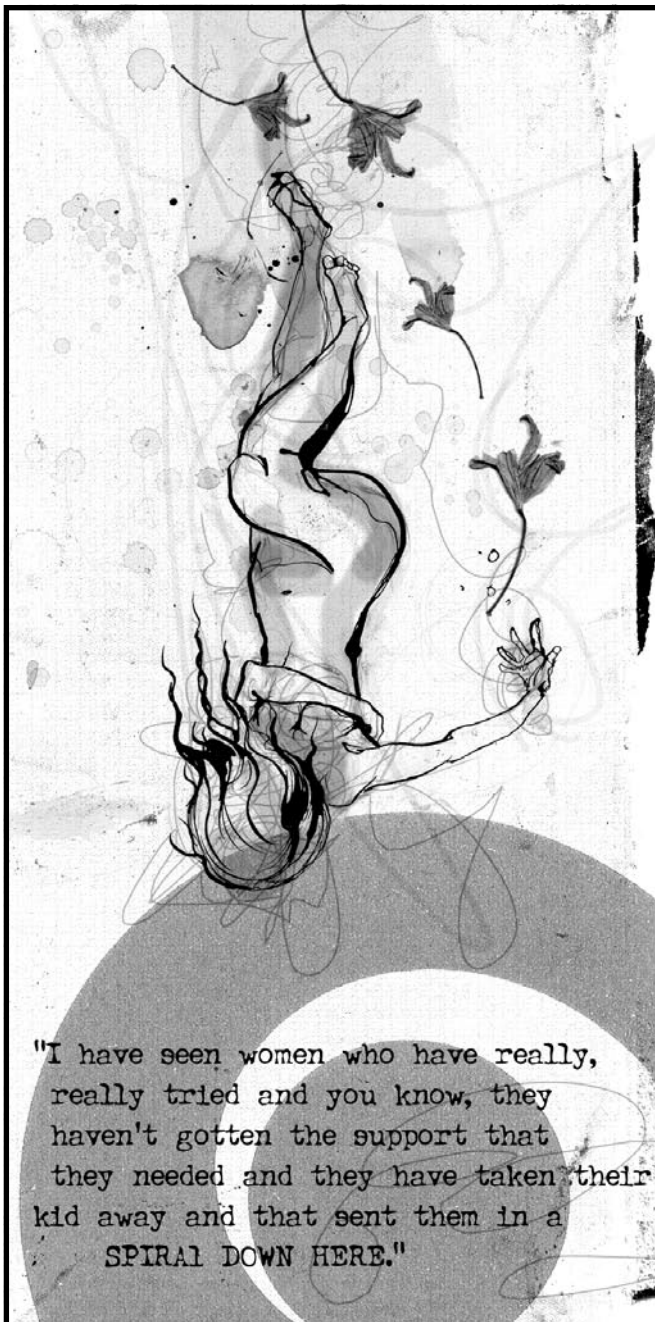
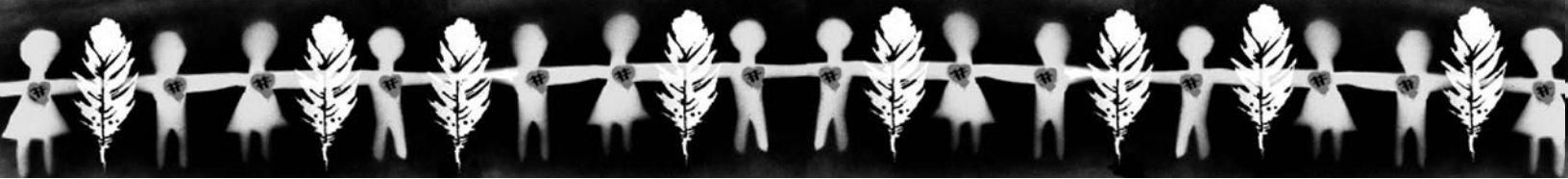
A major concern cited by mothers is that it feels as though there is never any action on their case even after they have managed months of sobriety and are performing well in other aspects of their life. A service provider working with women in a treatment facility explains that as women reach a milestone in their recovery it is important that there be tangible positive outcomes such as increased visits with their children. She also suggests that encouraging women in their role as mothers is very important. The conventional treatment model’s premise that treatment will only be successful when the person is “doing it for themselves” does not necessarily hold true for pregnant and parenting women. She explains that women rarely come into her facility looking for positive change for themselves:

Because most of the time they hate themselves so much they don’t figure they deserve anything good including recovery. But they can say “my children deserve something good, and my children deserve to have a mother that they can respect.” What I see is that they come in because of relationship stuff. They want people in their lives, so they start to clean up, as they start to clean up, as they start to see some real progress, they sense they can do this, then it starts to become about themselves.

Interview with drug and alcohol counsellor

While children may be the catalyst to positive changes in a mother’s life, this does not mean she will be reunited with them after those changes have taken place. One mother, who has been fighting for her daughter’s return for nine years, explains:

They cannot get past the person who left the baby at the hospital. It doesn’t matter if I’ve been clean and sober for all this time. It doesn’t matter all the parenting certificates I have.



"I have seen women who have really, really tried and you know, they haven't gotten the support that they needed and they have taken their kid away and that sent them in a SPIRAL DOWN HERE."

It doesn't matter all the letters of support. It doesn't matter all the schooling I've had. It doesn't matter that there is no question about my youngest son. Doesn't matter. They've convicted me.

Interview #25

She is thankful that at least she gets to have regular visits with her daughter and has managed to remain clean and to

continue with her education and community work in spite of the deep sadness she feels about the loss of her child to the foster care system. For other women the outcome of their separation from their children is much more tragic.

Child apprehension and relapse

A major theme that arose in our discussions with mothers was relapse or increased drug use after the removal of a child. For women who have not previously had drug problems, at least in recent years, the apprehension of their children and subsequent Ministry involvement can leave them so emotionally drained and depressed that drug and alcohol use feels like the only way of getting a reprieve from the pain. This only further complicates their child protection case:

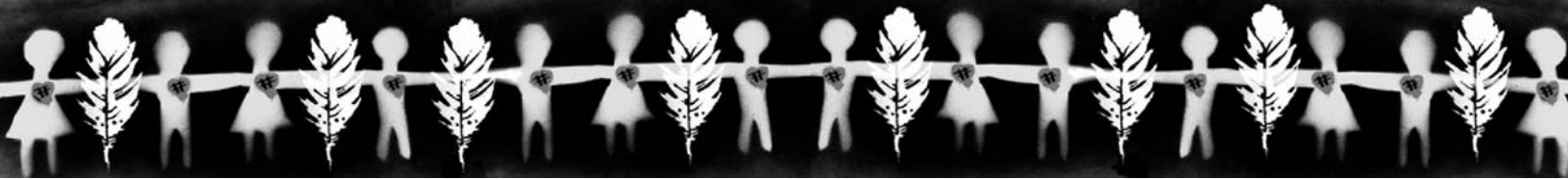
When my children were removed, I stopped being able to go to work consistently. I did not care anymore about anything. I did not want to be involved with anyone. I just wanted to be at home with myself. I wanted to sleep all day, all the time, so that I would not have to feel anything . . . After a while of feeling that I was not getting anywhere with the Ministry I felt hopeless and I began to drink and did crack a couple of times. I am not a drinker and I do not do drugs. I only drink socially every few months. I felt awful. I knew this was not me.

Affidavit #4

This mother went on to explain how a distrustful relationship with social workers detracted from building an honest and collaborative relationship:

I wanted to explain to the social worker and team leader the impact that taking my kids from me was having on my life but I couldn't. I knew that if I was honest about this impact, they would tell me that I was not coping and that I could not take care of my kids. I did not feel like I could be honest with them.

For mothers who have managed to quit or significantly decrease drug use after years of addiction and involvement with the child protection system, an unexpected apprehension of a subsequent child can have devastating effects. This mother, who managed to quit cocaine and alcohol after two decades of addiction, had her infant daughter apprehended from the hospital after she admitted to smoking a small amount of marijuana for pain relief at the end of her pregnancy. She is now back on cocaine and living in the Downtown Eastside:



Nobody was expecting [the apprehension at birth], not even my girl's foster mom, not even my family, and that was so upsetting. The worker called it a relapse. If that's what they call a relapse, I am going to make sure that if I relapse I will make it damn good and hard. And here I am.

Interview #4

Other mothers report that it is not uncommon for women to struggle to manage or beat their addiction without any support, only to have the Ministry apprehend their children:

I have seen women who have really, really tried and you know, they haven't gotten the support that they needed and they have taken their kid away and that sent them in a spiral down here.

Interview #1

Outcomes like this are not inevitable when women with substance use issues have children. Rather, there are a range of models that are working well for mothers and children. However, long wait-lists, funding restraints, lack of follow-up services, rigid thinking and refusal of Ministry staff to accept the wisdom of experts in the field are all impediments to working effectively with substance using mothers and their families.

Working with substance-using mothers

Through the 1980s and into the 1990s, substance-using pregnant or mothering women who wanted to access prenatal care had to face a punitive system that functioned based on the belief that women who use substances are incapable of parenting and are beyond help. Standard practice in cases where an infant was prenatally exposed to drugs was to separate mother and child and place the infant in a sensory-deprived environment. Many services required that women be abstinent from substance use, and positive drug tests alone were used to justify apprehending infants and children. Women's fear of being judged, their feelings of guilt and shame and/or their fear of having their children taken from them created enormous barriers to care. During that period, children in Vancouver who had been or were suspected of being prenatally exposed to drugs were taken to Sunny Hill hospital for their children's NAS in-patient treatment program.

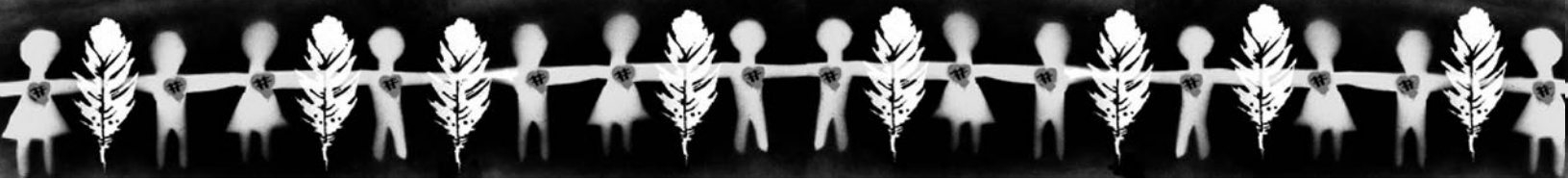
The NAS program at Sunny Hill was very closely aligned with the child protection system to the point where the founding director considered his program "really one with

them."¹⁷⁵ Only one-third of infants discharged from Sunny Hill were placed with their parents.

In 2000 a new protocol between the Ministry and the Vancouver Coastal Health and Community Agencies was developed. This is part of an improved approach to working with substance-using women during pregnancy. New protocols reflect the acceptance of best practice research in other jurisdictions and the success of programs that focus on non-judgmental service and harm reduction when dealing with pregnant women. For example, in 1993, Sheway opened its doors. Located in the Downtown Eastside, Sheway has been providing outreach, support, and prenatal and early parenting support to pregnant women and women with babies under 18 months of age who currently have or have had issues with substance use. With a women-centred and family-focused approach, Sheway provides its services within a philosophy of harm reduction and cultural self-determination. Practical services include food aid, such as daily healthy lunches, as well as hygiene and transportation resources. Professional services range from pre- and postnatal health care, to counselling and advocacy support with legal issues. Sheway's vision is to empower women in their parental and social skills, support them in building their health through reduction of risk behaviour (alcohol and drug use), as well as provide a nurturing and welcoming environment for women to connect with social and health care services.

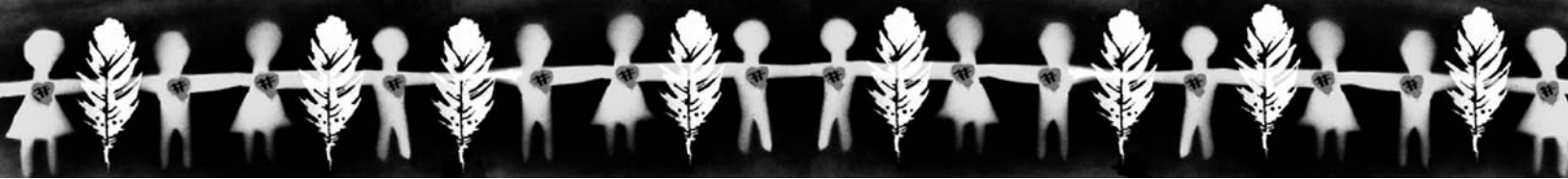
In 2003 the Fir Square Combined Care Unit was created at B.C. Women's Hospital in Vancouver to provide antepartum and postpartum care to pregnant women (at least 15 weeks) desiring to stabilize or put an end to substance use. The unit's goal is to close the gaps in the continuum of care for pregnant and early postpartum women with problematic substance-use issues as well as to create hope among their clientele, keep families together, and facilitate a healing environment. Staff employ a harm-reduction approach, recognizing the need to detoxify in a safe and stable environment. Women are welcome on a drop-in basis, and services are provided on a first come, first served basis. Their multidisciplinary approach to healing includes services such as methadone treatment and specialized treatment for infants. With four nurses on staff at all times,¹⁷⁶ the program is purported to be able to provide more personal care. Mothers who we interviewed were not directly asked about their views on the effectiveness of the Fir Square Unit.

Even in cases where social workers were willing to be flexible about apprehending a child, there was often nowhere appropriate to house mothers and baby, such as second-stage



housing, or even affordable apartments, resulting in apprehensions from the hospital after extended stays. Overall, there is a lack of resources to meet the demand for services such as those provided by organizations like Sheway to support a successful transition back into the community. Although

Sheway is currently serving approximately 120 clients,¹⁷⁷ it is challenged in its capacity to provide extended care for children. Recommendations have been made concerning elongating the 18-month care period to five years, as well expanding services specifically for children and parents.



RECOMMENDATIONS FOR PART FOUR: VULNERABLE COMMUNITIES

The Risk Assessment Tool

- The risk assessment tool should be replaced with individualized strength-based needs assessment. Social workers need to be able to use their professional judgment in working with families to consider the following factors in assessing risk: the strengths of the parents, the parents' present situation, and the systemic barriers that limit some parents' ability to safely care for their children.

Poverty

- The Federal government must live up to the promises made by the previous government as part of the Kelowna Accord.
- Minimum wages and welfare rates should be raised to provide a reasonable standard of living for parents and their children and reflect the cost of living.
- Pregnant women and parents with children in temporary care should receive shelter allowances at a rate that reflects their longer-term housing needs. Shelter allowance rates should not be reduced while a child is in the temporary care of the Ministry.
- All levels of government must commit to a housing program that addresses the urgent need for more safe and affordable family housing units.
- Introduce a publicly funded universal child care program.

Mental Health and Developmental Impairments

- Increase access to child care, health and other supportive services that are accessible prior to a full-blown mental health crisis, in order to allow parents to use preventative measures to manage their illness.
- Review current practices related to the parental capacity assessment, including: when assessments are requested by the Ministry; the type of information contained in the assessments; and the weight given to these assessments.
- The Ministry of Children and Family Development is currently mandated to integrate services with the B.C.

Association for Community Living, which is mandated to support people with developmental disabilities. However, if a parent has an IQ over 70, he or she will not qualify for services. Parents are put in a very difficult position when they are deemed to be too high-functioning to qualify for services but too low-functioning to care for their children. This major gap in services must be addressed.

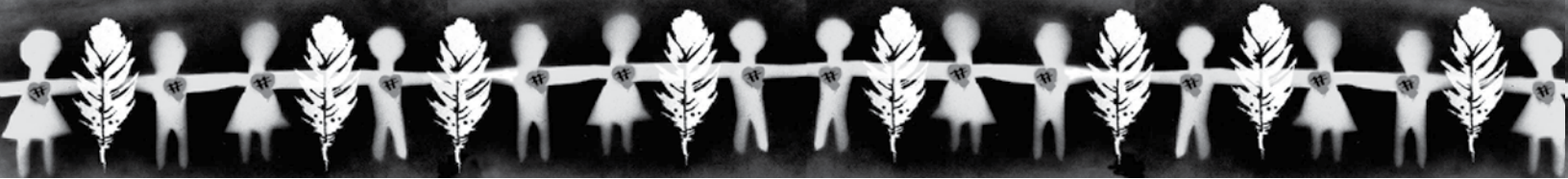
- The level of psychiatric labels and medication administered to children in care should be subject to an ongoing review, and alternatives must be explored.

Family Violence

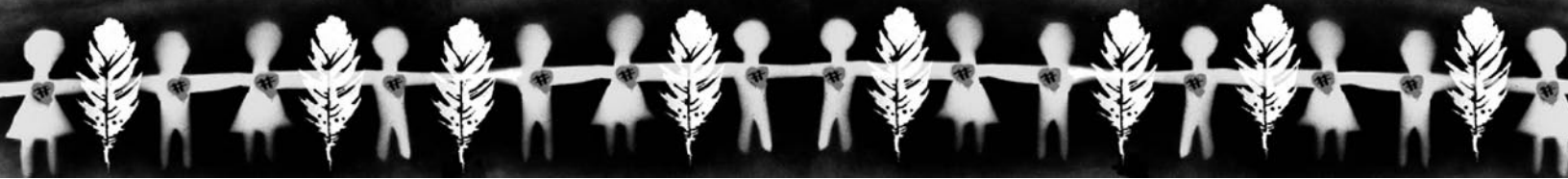
- The Ministry should follow its own best practices guidelines for working with mothers in situations of domestic violence.
- Children should not be removed from mothers where the only concern is domestic violence and the child is not being physically abused.
- Better training should be provided to social workers on the dynamics of abusive relationships and, in particular, the reasons why women stay in these types of situations.
- Social workers should be familiar with services available to women who are trying to leave violent relationships. They should also be advocating for services that are currently unavailable but necessary for their clients.

Drug and Alcohol Use

- Improve training related to substance use for child protection workers.
- More beds in treatment facilities are required to ensure mothers have timely access to treatment. Treatment options that allow mothers to be accompanied by their children or at least maintain regular contact, should be developed.
- Ensure the availability of follow-up services to help meet basic needs after completion of treatment, such as housing and counselling services.



PART ONE – THE CONTEXT
PART TWO – A BROKEN SYSTEM
PART THREE – THE DECISION MAKERS
PART FOUR – VULNERABLE COMMUNITIES
PART FIVE – A VIOLATION OF PRINCIPLES



A VIOLATION OF PRINCIPLES

Eleven years after the *Child, Family, and Community Service Act* (“CFCSA”) came into force, the experiences of parents demonstrate that the Ministry of Children and Family Development (“Ministry”) has failed to adhere to its core principles. The guiding principles and service-delivery principles set out in sections 2 and 3 of the *CFCSA* suggest a family-centred system that supports parents, extended family networks and communities to care for children safely while respecting the inherent value of Aboriginal traditions and cultural diversity.

These principles reflect many of the values expressed in the *Making Changes: A Place to Start* and *Liberating Our Children, Liberating Our Nations* reports based on the 1992 community consultation process.

Where the guiding and service-delivery principles were discussed with parents and service providers participating in this project, the reaction was generally one of disbelief combined with outrage:

There is no accountability on the Ministry's part to in fact demonstrate that they are, in any capacity, operating by the guiding principles. They are breaking their own law. Here are their operating guiding principles that they themselves are not even implementing. So what does that tell you about an existing organization that is managing the lives of these children?

Focus group with service providers

An important step toward improving the functioning of the child protection system and achieving better outcomes for children, parents and communities is to routinely evaluate child protection practices in relation to these principles and to ensure that both the resources and the political will are in place to enhance compliance with these principles.

Guiding principles

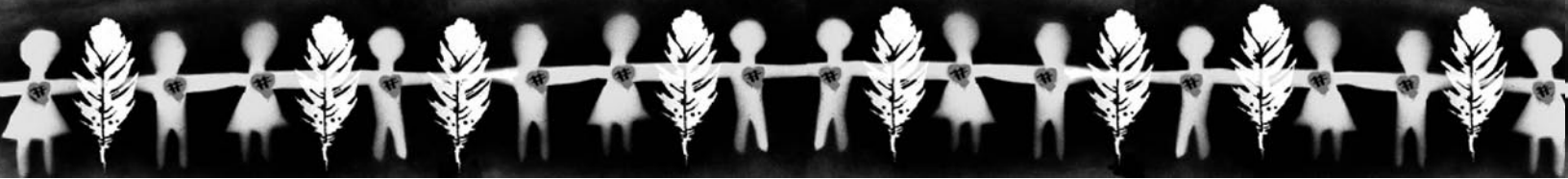
2(a) children are entitled to be protected from abuse, neglect, or threat of harm;

The protection of children from abuse, neglect and the threat of harm are at the heart of child protection work. Finding out whether a child is in need of protection from abuse, neglect or a threat of harm is difficult, and problems remain in how this determination is made:

- The concept of neglect is too vague and is easily confused with the effects of poverty and lack of social supports. This invariably leads to social problems being inappropriately cast as child protection issues.
- The harm a child may experience if left in the family home is rarely weighed against harm that may be caused by an apprehension or by growing up in the foster care system.
- The current risk assessment model fails to consider the strengths of individuals; parents who belong to particular groups, i.e., Aboriginal parents, parents who grew up in foster care, parents with disabilities, and poor parents are more likely to be found to put their children at risk, regardless of their individual strengths.

(b) a family is the preferred environment of the care and upbringing of children, and the responsibility for the protection of children rests primarily with the parents;

- Resources need to be put in place in order to ensure that social workers have the time to work with parents to ensure that apprehensions are the last resort. This would include smaller caseloads, more transitional-housing options, and greater support for kinship care options.



- Family Care Homes¹⁷⁸ cannot be considered a replacement for a genuine family environment as the Ministry suggests. The continued placement of children far from home, lack of communication between foster parents and natural families, separation of siblings, multiple moves and poor outcomes for kids in care suggests that this model is not working for children.
- Parents' perceived inability to live up to their "responsibility" for their children has to be considered in light of retrenchment of services and income supports for single-parent families, the lack of services for people with disabilities, and the poor parenting that the government has provided to many young mothers now facing the apprehension of a child. The government must live up to its responsibilities to all marginalized people, particularly to youth formerly in care and Aboriginal families.
- This principle should be interpreted in light of Canada's ratification of *The United Nations Convention of the Rights of the Child*, which recognizes the interrelated responsibility of parents and the state for the support and care of children.¹⁷⁹

(c) if with available support services, a family can provide a safe and nurturing environment for a child, support services should be provided;

- Due to high caseloads, social workers do not have time to do a proper assessment of the alternatives to apprehension for a family, including the provision of support services; social workers do not have time to develop a preventative plan with parents.
- Even when social workers have the time to investigate appropriate support services, the resources to which they would like to direct families do not always exist. Available support services tend to be focused on "fixing" parents' individual shortcomings rather than addressing more urgent needs such as housing.

(d) the child's view should be taken into account when decisions relating to a child are made;

- More resources need to be dedicated to ensuring that children have their views and opinions considered. In particular children under 12,¹⁸⁰ capable of forming an opinion, need timely access to an independent party to formally assess their opinions and the impact of the home environment and the apprehension on the child.

(e) kinship ties and a child's attachment to the extended family should be preserved if possible;

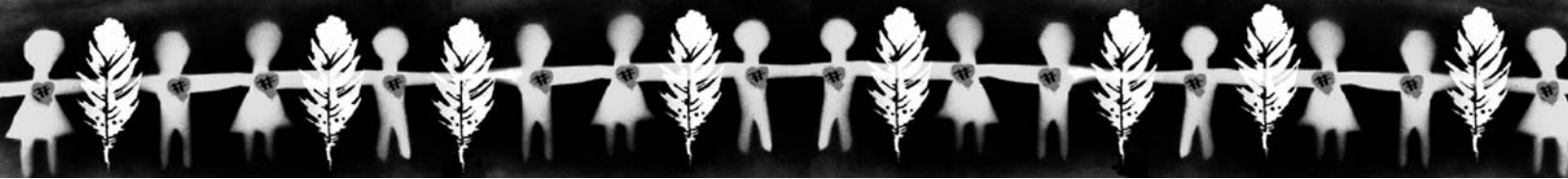
- Placement within a child's extended family or with family friends should be prioritized.
- There must be parity between the resources provided to family members taking custody of a child the Ministry considers at risk and the resources available to foster care providers.
- Where foster placement is necessary, visits with a child's parents and other family members with a strong bond to the child must be prioritized, and resources to ensure these visits occur should be readily available. Except in extreme circumstances, provisions for access should be made immediately following an apprehension.
- In cases where siblings are taken into care, they should not be separated.

(f) the cultural identity of aboriginal children should be preserved;

- A full independent audit of Ministry decision-making practices must be undertaken to better understand why the ratio of Aboriginal children in care continues to increase in B.C.
- The Ministry must work in conjunction with delegated Aboriginal agencies to identify and address barriers to the recruitment of Aboriginal foster parents and to develop fostering protocols that encourage culturally appropriate caregiving arrangements.
- Greater attention needs to be paid to the plans of care for Aboriginal children, particularly the 84.2 percent of Aboriginal children in the Ministry's care residing in non-Aboriginal homes. Currently, plans tend to lack detail or be generic in nature with no reference to the specific culture of the child in question. Foster parents unable or unwilling to facilitate the meaningful preservation of culture by working with members of the Aboriginal community should not be considered as caregivers for Aboriginal children.

(g) decisions relating to children should be made and implemented in a timely manner.

- Large caseloads currently prevent social workers from responding to requests, arranging visits or developing a plan for return in a timely manner. Caseloads must be reduced to a size that allows social workers to pay adequate attention to each family about whom they are making decisions.
- Inordinate delays in the court system must be addressed. Greater emphasis must be placed on ensuring that the



decision to apprehend a child is subject to a thorough judicial review in the shortest amount of time possible.

- In cases where the Ministry is willing to return a child once the parent has addressed specific concerns, it is imperative that services and resources are available to ensure that parents can address those concerns in the shortest amount of time possible.

Service-delivery Principles

(a) families and children should be informed of services available to them and encouraged to participate in the decisions that affect them;

- Parents report that they are not being informed of services for which they may be eligible; this includes information about their ability to access counsel prior to an apprehension. Parents should be provided with written materials that contain complete and accurate information about their rights, Ministry's services and eligibility requirements, community service or advocacy organizations, and legal aid.
- Parents must be provided with more information about the Ministry's concerns, their child's placement, the plan of care for their child, and plans for returning the child. Parents need to be provided with reasons for decisions in order to participate in a full and meaningful way in discussions about their case.
- Parents need greater access to well-trained advocates who can better explain the child protection process to them.
- Social worker caseloads must be reduced to a level where making time for family involvement in case planning becomes feasible.

(b) aboriginal people should be involved in the planning and delivery of services to aboriginal families and their children;

- Parents expressed concern about the lack of Aboriginal social workers and foster care providers. More effort must go into recruiting Aboriginal people. There must also be flexibility in practice standards and greater emphasis on addressing internal racism at the Ministry in order to ensure that Aboriginal workers will be retained and can do their work in a way that reflects their culture and values.
- Aboriginal parents and some service providers expressed concern that the Aboriginal delegation process felt irrelevant to their lives or was going too slowly. More work must be done to ensure that the Aboriginal community is kept up to date about what is going on with the process and has input into the shape of newly delegated agencies.

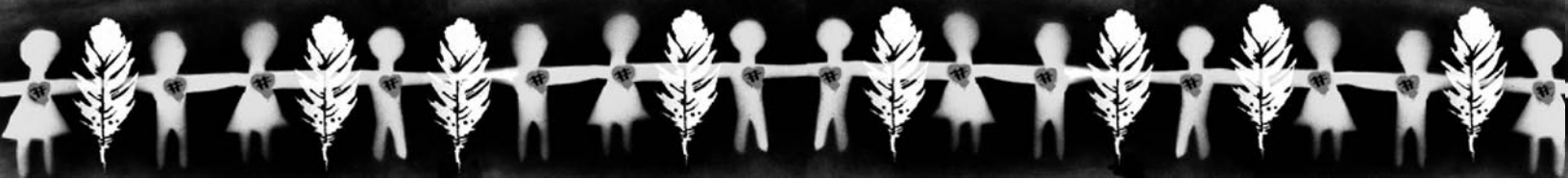
- Aboriginal service providers who are well respected in the community should be considered a source of valuable knowledge by the Ministry. Currently, service providers feel that they are rarely consulted by the Ministry staff on either policy decisions or decisions relating to specific families with whom they have a relationship.

(c) services should be planned and provided in ways that are sensitive to the needs and the cultural, racial and religious heritage of those receiving the services;

- There is not enough effort put into matching families with the most appropriate service to meet their needs. This concern was raised with respect to both the type of service they were directed to and about specific programs.
- There is a need for more Aboriginal parenting programs.

(d) services should be integrated, whenever possible and appropriate, with services provided by government ministries, community agencies, and Community Living British Columbia;

- A major frustration for parents and service providers is the lack of congruence between the policies of the Ministry of Employment and Income Assistance ("MEIA") and those of the Ministry of Children and Family Development ("Ministry"). Income supports provided through MEIA are too low to enable parents to adequately house their children and meet all of their other needs. MEIA regulations stating that a single parent must look for work when their youngest child turns three negatively affect Ministry-involved families who must attend parenting programs and other services and meetings. Parents often lose their housing after their children are placed in temporary care because their shelter allowance level drops.
- Social workers often have a poor knowledge of programs available in the community and have little time to learn. In some cases workers do not know which programs exist. In other cases they refer parents to programs and do not know that there are long wait-lists or that the program is not suitable for the client.
- Due to social workers' high caseloads, the lack of advocates, and greater reliance on community agencies to provide basic services to families in need, service providers are often overwhelmed with parents needing their support. These agencies report being chronically underresourced.
- The criteria for Community Living services are too stringent, and the agency's resources are limited. A number of



parents expressed frustration that while the Ministry felt that they did not have the capacity to effectively parent on their own, there were no supports available to them through Community Living.

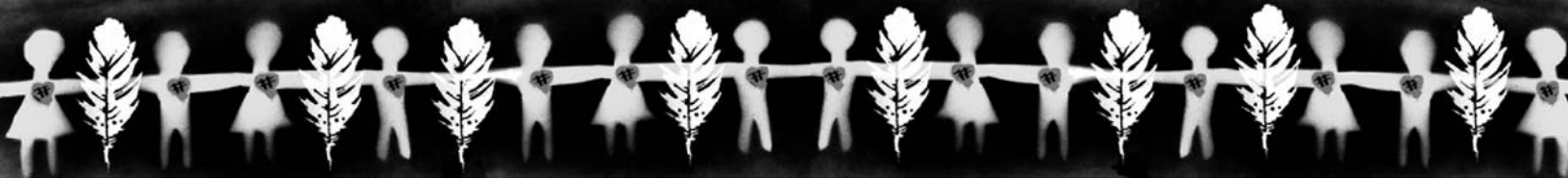
(e) the community should be involved, wherever possible and appropriate, in the planning and delivery of services, including preventative services to families and their children.

- Community agencies have a clear sense of the preventative and support services that would be of the greatest benefit to their

clients but do not have the resources to provide those services.

- Some community agencies feel as though the Ministry has little respect for the work they do. Service providers working closely with families on a much more regular basis than their social worker feel that they are not valued by Ministry staff as a resource in case planning. In cases where a community agency is providing services such as parenting programs, service providers tend to feel that their assessment of the parent is given little or no weight in decision making.

In a process that often feels arbitrary and unfair to parents, rules and operating principles that provide a framework and some certainty are vitally important. A review of the guiding principles and service delivery principles reveals that B.C.'s child protection system has largely failed to abide by its own rules and values.



CONCLUSION

One of the most significant themes coming out of Justice Ted Hughes's 2006 *B.C. Children and Youth Review* is the need for stability within the child protection system. Hughes noted that in the ten years preceding the release of his report there had been nine ministers, eight deputy ministers and seven directors of child protection. In the past 30 years, there have been a number of public consultations on child welfare, an overhaul of child welfare legislation, and two judicial inquiries relating to child deaths in care.

In spite of these widespread legislative and government changes, from the perspective of parents involved with the child protection system, there has been unfortunate continuity.

For the most part, parents' concerns today mirror the issues raised by parents who participated in community panels evaluating the child protection system 15 years ago. This should not come as much of a surprise considering the child welfare system has continued to impact the most vulnerable families in our society; those who are dealing with the ongoing realities of poverty and colonization.

Stagnancy in the child welfare system can be seen in the generations of families that have been affected by it. Most of the parents that we spoke to spent some time in state care when they were children. For Aboriginal parents, the history of government interference in their families' lives can be traced back to the forcible removal of children through the residential school system. Considering the poor outcomes for youth that have grown up in care, the state has not proven itself to be a particularly good parent. Many former youth in care become parents with their own children in foster care. The cyclical nature of the child protection system is devastating for families as parents continue to struggle with the same issues as their grandparents' generation. The positive features of legislative changes have had little impact on the experiences of these families; in many ways, the situation for families seems to have deteriorated over the past decade.

A new approach

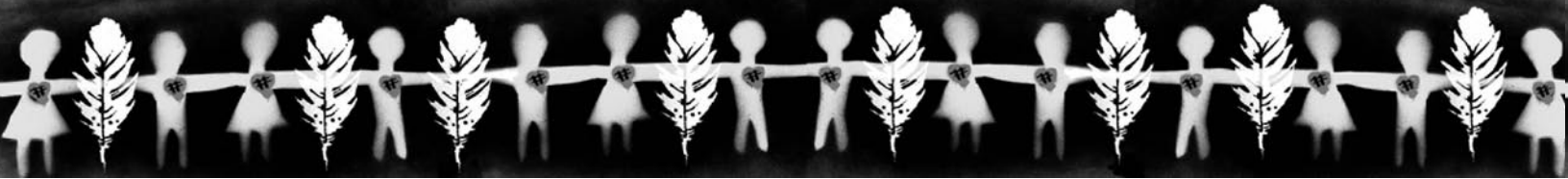
Throughout this report we have made suggestions about how to improve the functioning of the child protection system. Many of those suggestions have come from parents themselves, others from service providers, lawyers and social workers. Some recommendations are reasonably simple; others would require a fundamental rethinking of what it means to protect a vulnerable child and the investment of considerable new funds. It is our position that the child welfare system is in desperate need of a new approach to working with families. From the perspective of vulnerable families, there are three key elements that are integral to any new approach to reforming child welfare.

Address problems at their root

Approaches to protecting children remain individualistic, crisis driven and devoid of a real commitment to supporting universal public programs that would reduce poverty and the social and economic stresses on all parents. Although the colonial history of this province and ongoing discrimination against Aboriginal people are well recognized, comprehensive attempts to address the economic, social and cultural impacts of this legacy have not been forthcoming.

Build collaborative relationships

Even though many families involved with the child protection system have a range of professionals involved in their lives, many parents have no one with whom they can have a genuine trusting and supportive relationship. A rotating cast



of social workers, each with an unmanageably large caseload, cannot forge meaningful relationships with their clients, particularly given their simultaneous investigative role. This is a major barrier to effective social work practice. Community agencies are an invaluable resource for both families and the child protection system; however, many have to cope with chronic fiscal instability. Building relationships and financially supporting community agencies is imperative if the child protection system is to function effectively and fulfill its mandate. Parents often have no idea where their children are living while in care; and foster families only have basic information about parents and their beliefs, values and desires for their children. Work must also be done to build better relationships between foster families and biological families.

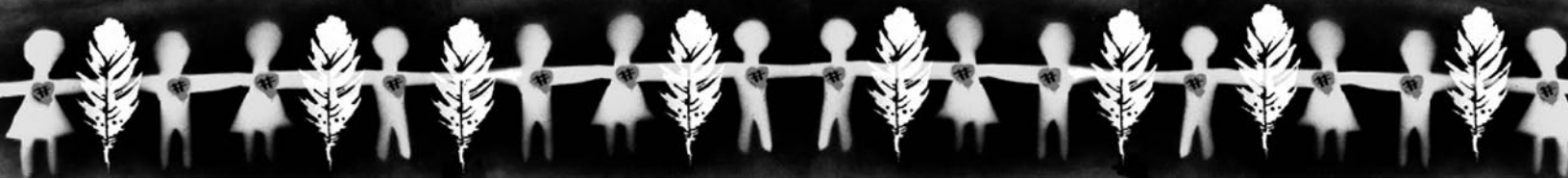
Ensure transparency and accountability

Families involved with the child protection system have very little trust in it. This is another major barrier to effective child protection work. Parents' negative opinion of the Ministry stems in large part from the lack of transparency and accountability in decision making. The court system should provide an effective and timely check on administrative decision making. However, many child protection decisions are never reviewed by a judge, and the court system is plagued with delays. This can leave parents feeling like they have never had an opportunity to respond to allegations or challenge a social worker's decision.

Plans for reform

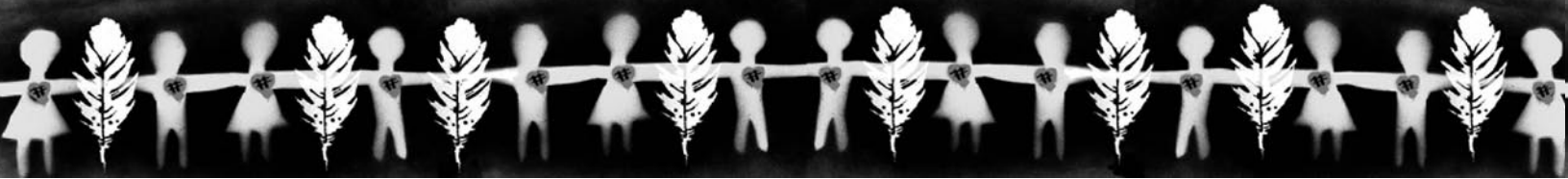
In July 2007, the Ministry for Children and Family Development released a draft of its plan for child welfare reform, the *Good Practice Action Plan: Transformation Action Plan* ("action plan"). The action plan envisions a child protection system that closely mirrors what we heard parents saying they would like to see. It stresses the importance of "strengthening communities and families, both economically and socially."¹⁸¹ The action plan sets out a preventative strategy, noting that in order to truly ensure the well-being of children and families, the Ministry must take "a developmental and ecological approach which includes both a range of integrated services, as well as community development work."¹⁸²

While we applaud this vision of a transformed child protection system, our response is tempered by the knowledge that seemingly positive steps forward in the field of child protection in the past have not always lived up to their promises. For over ten years, a set of principles enshrined in legislation that address many of the issues raised in the action plan have not been followed. Without a genuine commitment to implementation, progressive principles and action plans cannot repair this broken system. Implementation will necessarily require a long-term commitment and substantial resources. As the government of British Columbia considers, yet again, reforms to the child protection system we hope that this time the voices of vulnerable families will truly be heard.

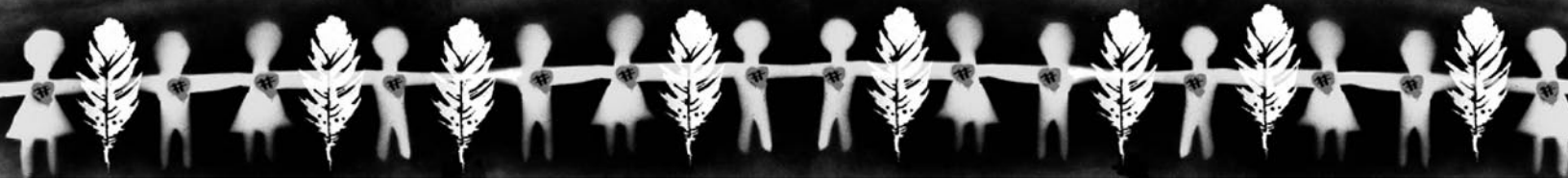


ENDNOTES

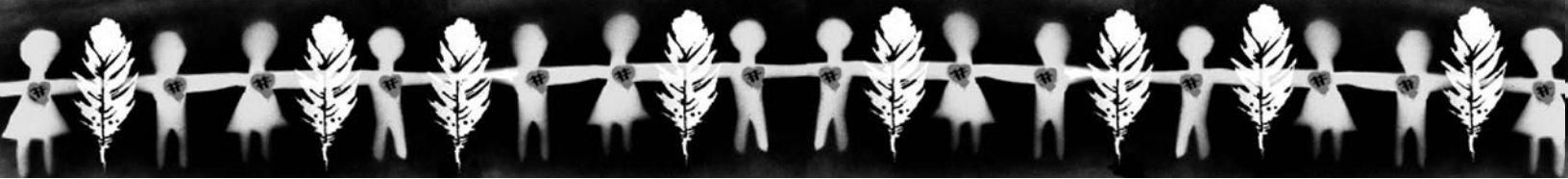
- 1 Firstcall, B.C. Children and Youth Advocacy Coalition "B.C. had the worst record three years in a row." Fact sheet #2 (November 24, 2006).
- 2 Ministry of Children and Family Development. *Children in Care Trends and Indicators* (November 2006 report).
- 3 Numbers are based upon admissions into care for the 2005 year. Information obtained from MCFD DESA branch.
- 4 CBC News, "Kids See Group Homes as 'Gateways to Jail': Child Advocate" (March 7, 2007). Online at www.cbc.ca/canada/story/2007/03/07/childrens-aid-070307.html.
- 5 BC Ministry of Health, Office of the Provincial Health Officer (2006) *Joint Special Report on the Health and Well-being of Children in Care*. Online www.health.gov.bc.ca/pho/pdf/cyo/complete_joint_report.pdf
- 6 *Ibid.*
- 7 The *Child, Family and Community Services Act (CFCSA)* is the legislation governing child welfare practices in B.C. It was proclaimed in 1994 and came into force two years later.
- 8 See for example Ministry of Children and Family Development ("MCFD") service plans archived at www.bcbudget.gov.bc.ca/default.htm#msp.
- 9 In 1994 there were approximately 6000 children in care in B.C. (A. Artimage (1998) "Lost vision: Children and the Ministry for Children and Families," *B.C. Studies* cited in Anglin (1999), pp. 23–24). As of November 2006 there were 9,271 children in foster care in B.C. That number is down from a peak of over 10,000 children in care in 2001. (British Columbia, Ministry of Children and Family Development. *Children in Care, Trends and Indicators, November 2006 report* (draft))
- 10 *Ibid.*
- 11 Her office and mandate were established in the *Representative for Children and Youth Act*.
- 12 Information Sheet – Permanent Authorities Legislation Overview, September 6, 2007.
- 13 To find about more about the Representative for Children and Youth in B.C. and her mandate go to www.rcybc.ca.
- 14 See for example Marilyn Callahan, Barbara Field, Carol Hubberstey and Brian Wharf (1998) *Best Practices in Child Welfare: Perspectives from Parents, Social Workers and Community Partners* (Victoria: Child, Family and Community Research Program, University of Victoria); Callahan, Rutman, Strega and Dominelli (2005) "Looking Promising: Contradictions and Challenges." In Diana L. Gustafson (ed) (2005) *Unbecoming Mothers: The Social Production of Maternal Absence* (New York: The Haworth Clinical Practice Press); and Stephanie Kellington (2001) "Missing Voices: Mothers at risk for or experiencing apprehension in the child welfare system in B.C." National Action Committee on the Status of Women – B.C. Region, p. 7. Report available for download at www.nac-cca/about/regions/bc/Final_Report2.pdf.
- 15 Per capita rates of child apprehension from the DTES are twice that of the Vancouver Coastal Region as a whole and three times the provincial rate in 2004–2005.
- 16 The terms 'mothers' will be used throughout this report to reflect the fact that the vast majority of the people we spoke to were women, and that our findings may not apply in cases where single fathers are actively involved with the Ministry.
- 17 M. Callahan and C. Walmsley (2007) "Rethinking Child Welfare Reform in British Columbia, 1900–60." In Foster, Leslie T. and Brian Wharf (eds) *People, Politics and Child Welfare in British Columbia* (Vancouver: UBC Press), p. 11.
- 18 *Report of the Gove Inquiry into Child Protection in British Columbia* (1995), vol. 2. Online at www.qp.gov.bc.ca/gove ("Gove report").
- 19 The *Protection of Children Act (1939)* had been amended but not significantly changed since that time.
- 20 Gove report, vol. 2, p. 11.
- 21 *Ibid.*, p. 12.
- 22 *Ibid.*, p. 14.
- 23 Smallwood cited in Gove report, vol. 2, p. 88.
- 24 Gove report, vol. 2, p. 89, cited in Jim Anglin (1999) "Meaning and Implication of the Move to Paramourcy of the Safety and Well-being of the Child in Child Welfare Legislation" (Ottawa: Department of Justice Canada), p. 22.
- 25 Ted Hughes (April 2006) "B.C. Child and Youth Review," p. 6 ("Hughes report"). Online at www.childyouthreview.ca_down/BC_Child_and_Youth_Review_Report_FINAL_April_4.pdf.
- 26 Artimage (1998) cited in Anglin (1999), pp. 23–24.
- 27 P. Gough (2007) "British Columbia's Child Welfare System" Centre for Excellence in Child Welfare Information Sheet #54E. Online at www.cecw-cepb.ca/files/file/en/54E%20BCchildwelfaresystem.pdf.
- 28 *Ibid.*
- 29 Gove report, vol. 2, p. 53.
- 30 B.C. Association of Social Workers Submission to the B.C. Child and Youth Review January 2006 available for download at www.bcasw.org.
- 31 See Vancouver Status of Women (2004) "A New Era: The Deepening of Women's Poverty" available for download at www.vsw.ca/Documents/WelfareLobbyDOC.doc for a more through discussion.
- 32 Ministry of Employment and Income Assistance – B.C. Employment and Assistance Summary Report Case by Program, June 2007.
- 33 CBC News, "Sherry Charlie a battered child, says pathologist" (February 7, 2006) Online at www.cbc.ca/canada/british-columbia/story/2006/02/07/bc_sherry-charlie20060207.
- 34 Hughes report, pp. 8–9.
- 35 The Kelowna Accord was a ten year plan signed in November 2005 by the National Aboriginal Leaders and First Ministers of Canada in order to improve the quality of life of Aboriginal people. The Kelowna Accord has since been abandoned by the federal government.
- 36 Hughes report, p. 136.
- 37 Hughes report, p. 14.
- 38 Discussion with opposition MLA.
- 39 For detail on funding increases for foster parents go to www.mcf.gov.bc/foster/.
- 40 This quote is part of a disclaimer at the beginning of the *Liberating Our Children, Liberating Our Nations* report prepared by the Aboriginal Committee of the Community Panel, Family and Children's Legislation Services Rreview in British Columbia, October 1992 ("*Liberating Our Children*").
- 41 *Indian Act*, R.S. 1985 c. I-5.
- 42 *Liberating Our Children*, p. 19.
- 43 This is now s. 88 of the *Indian Act* which states "Subject to the terms of any treaty and any other Act of Parliament, all laws of general application from time to time in force in any province are applicable to and in respect of Indians in the province..."
- 44 *Liberating Our Children*, p. 20.
- 45 *Ibid.*, p. 2.
- 46 *Ibid.*, p. 17.
- 47 All names used in the report are pseudonyms.
- 48 Rutman, Strega, Callahan and Dominelli, "Young Mothers In/From Care Project" Proceedings of the April 3, 2001 Forum on Policy and Practice. Online at www.cecw-cepb.ca/files/file/en/YoungMothersCare.pdf.
- 49 B.C. Ministry of Health, Office of the Provincial Health Officer (2006), *Joint Special Report on the Health and Well-being of Children in Care in British Columbia: Report 1 on Health Service Utilization and Mortality ("Joint Special Report")*. Online at www.health.gov.bc.ca/pho/pdf/cyo/



- complete_joint_report.pdf.
- 50 CBC News, "Kids see group homes as 'gateways to jail': child advocate" (March 7, 2007). Online at www.cbc.ca/canada/story/2007/03/07/child-rents-aid-070307.html.
- 51 Callahan, Rutman, Strega and Dominelli, "Looking Promising: Contradictions and Challenges." In Diana L. Gustafson (ed) (2005) *Unbecoming Mothers: The Social Production of Maternal Absence* (New York: The Haworth Clinical Practice Press), p. 198.
- 52 Interview with social worker #1.
- 53 CFCSA s. 6.
- 54 CFCSA s. 6(4).
- 55 CFCSA s. 14(5).
- 56 CFCSA s. 14(6).
- 57 *Young v. Bella*, [2006] 1 S.C.R. 108.
- 58 MCFD, "Changes to Section 14 of the *Child, Family and Community Services Act*" prepared for the Ministry of Education, online at www.mcf.gov.bc.ca/child_family_service_act/pdf/section14info.pdf.
- 59 CFCSA s. 6(4)(a).
- 60 CFCSA s. 30(1).
- 61 CFCSA s. 33(1)(d).
- 62 CFCSA s. 2(c).
- 63 CFCSA s. 5(2): "The services may included, but are not limited to the following: services for children and youth, counselling, in-home support; respite care, parenting programs, services to support children who witness family violence."
- 64 Interview #5 with social worker.
- 65 A doula is a support person that assists a woman with various aspects of childbirth, including labour, delivery and postpartum support.
- 66 A specialized ward developed at B.C. Women's Hospital to serve women with substance use issues either past or present.
- 67 B. Whittington, T. Pearson, P. Mackenzie, D. Burns, L. Brown and M. Gracey (2007) *Supporting Grandparents Raising Grandchildren Resource Booklet – A Work in Progress* (2nd Edition). Online at socialwork.uvic.ca/docs/ressearch/Supporting%20Grandparents%20Raising%20Grandchildren%20resource%20Booklet%202nd%20edition_web.pdf.
- 68 All information about the exodus program comes from the presentation notes of Kathryn Icehower, PhD, of Shields for Families. Retrieved at home.earthlink.net/~shieldsforfamilies/_wsn/page4.html.
- 69 In cases where there has been no Ministry involvement family members can still enter into a child in the home of a relative agreement with the consent of the parent. Whittington (2007).
- 70 If a child is placed with a relative in a restricted foster home, the Ministry has guardianship of the child, like any other foster child, while the relative provides the day-to-day care of the child. The relative must submit to a restricted foster home study. A kith and kin agreement only requires a criminal record check and an assessment to determine whether or not the home would meet the child's basic needs. However, in order to qualify a restricted foster home, it must be determined that placing the child in the home is consistent with the child's best interest. Whittington (2007).
- 71 Foster care rate tables can be accessed at: www.mcf.gov.bc.ca/foster/foster_home_model/levels.htm. Level one specialized care refers to children who have multiple developmental needs and who may have some challenging behaviours; the supplement is \$396.56 per month. Level two care refers to children who have more complex health needs and may display challenging behaviours that interfere with social interaction and daily functioning. Rates are \$1,078 for the first child, \$1,845.76 for two children and \$2,508.54 for three children. Level three care is reserved for children who require the most extensive daily care such as feeding tubes or who have mental health concerns that may include behaviours that pose a risk to self or others. Rates are \$1,755.20 per month for a first child and \$2,990.20 for two children.
- 72 This number has gradually increased over the past 12 years, from 4,040 in 1995. See www.eia.gov.bc.ca/research/archive/06/12.Dec06.pdf.
- 73 Ministry of Employment and Income Assistance – rate table CIHR. See www.eia.gov.bc.ca/mhr/cihr.htm.
- 74 Ministry of Children and Family Development, Foster care rate tables at www.mcf.gov.bc.ca/foster/foster_home_model/levels.htm
- 75 Interview #3 with social worker.
- 76 B.C. Association of Social Workers Submission to the B.C. Children and Youth Review (January 2006) pp. 9–10.
- 77 See www.mcf.gov.bc.ca/foster/foster_home_model_care_rate.htm.
- 78 Social worker interviews #3 and #4.
- 79 Interview #15.
- 80 Interview #3 with social worker.
- 81 Sydney Weaver (2007) "Make it more welcome: Best-practice child welfare work with substance-using mothers: Diminishing risks by promoting strengths," in Susan Boyd and Lenora Marcellus (eds) (2007) *With Child: Substance Use During Pregnancy: A Woman-Centered Approach*. (Halifax: Fernwood Publishing), p. 89.
- 82 Buchwitz and Stark (2001) "Alternatives to Apprehension: Education, Action and Advocacy." A report prepared for the Society to Support Family Bonding, Healing and Drug and Alcohol Meeting Support for Women, British Columbia Ministry of Child and Family Development, pp. 25–27. Online at www.mcf.gov.bc.ca/core_review/submissions/rev_bondingsociety2.pdf.
- 83 Interview #10.
- 84 Fay Martin (1996) *Tales of Transition: Leaving Care; From Youth in Transition: Perspectives on Research and Policy* (Toronto: Thompson Educational Publishing), pp. 99–106.
- 85 B.C. Office of the Provincial Health Officer and Representative for Children and Youth, *Joint Special Report: Health and Well-being of Children in Care in British Columbia – Educational Experiences and Outcomes* ("Joint Special Report – Educational Experiences"). Online at www.rcybc.ca/Groups/Special%20Reports/complete_joint_special_report.pdf.
- 86 CBC News, "Kids see group homes as 'gateways to jail': child advocate" (March 7, 2007), online at www.cbc.ca/canada/story/2007/03/07/child-rents-aid-070307.html.
- 87 *Ibid*.
- 88 Coroner's Court of British Columbia, Findings and Recommendations as a Result of the Inquest into the Death of Savannah Brianna Marie Hall (November 2007).
- 89 Ministry of Children and Family Development, "Children in Care: Trends and Indicators" (November 2006 report).
- 90 *Joint Special Report: Health and Well-being of Children in Care in British Columbia*.
- 91 CFCSA s. 33.
- 92 Quoted in Weaver (2007).
- 93 Module 1: Introduction to Child Welfare Work (7th edition, July 2005), Instructor's Guide.
- 94 Once a family service file has been opened for a parent, if the child is removed again, the same social worker who removed the child will be working with the parent to have the child returned. It is only where it is a new file – i.e., where the child has never been removed – that there is normally a change from the intake worker to the family service worker in after an interim order is obtained (normally in approximately 30 days).
- 95 BCGEU Submission to the Hughes Review on Child Protection, January 2006, p. 7.
- 96 B.C. Association of Social Workers Submission to the B.C. Children and Youth Review (Hughes Review), January 2006, p. 9.
- 97 Child and Youth Officer of B.C., Asking Questions Project, August 2005, p. 6. Online at www.gov.bc.ca/cyo/popt/javascript_verion/publication.htm.
- 98 Interview #3 with social worker.
- 99 Representative for Children and Youth. *2007 Progress Report on Implementation of the Recommendations of the Hughes Review* (November 2007).
- 100 Legal Services Society, British Columbia, "Parents' Rights, Kids' Rights" revised in March of 2007, online at www.lss.bc.ca.
- 101 CFCSA s. 101.1.
- 102 Representative for Children and Youth. *2007 Progress Report on Implementation of the Recommendations of the Hughes Review* (November 2007).



- 103 *Baker v. Canada*, [1999] 2 S.C.R. 817 at para. 43.
- 104 *New Brunswick (Minister of Health and Community Services) v. G. (J.)*, [1999] 3 S.C.R. 46.
- 105 *CFCSA* s. 33.1(1) and s.34(1).
- 106 The names of the parties, dates and band name are all fictitious.
- 107 Affidavit #1.
- 108 *Director of Child, Family and Community Service v. RF and JM*, [1996] New Westminster Registry No. E003437 (unreported); *T. (K.M.) v. T. (J.D.)*, [1999] B.C.J. No. 822 (QL) (Prov. Ct.).
- 109 *CFCSA* s. 35(2).
- 110 *CFCSA* s. 37.
- 111 Lawyers' focus group.
- 112 *CFCSA* s. 38(1).
- 113 Lawyers' focus group.
- 114 *CFCSA rules*, r. 2(5).
- 115 *CFCSA* s. 54(1).
- 116 *CFCSA* s. 50(1)(a).
- 117 *CFCSA* s. 43.
- 118 Legal Services Society tariff guide.
- 119 *Ibid.*
- 120 *CFCSA* s. 61(1).
- 121 Section 39 of the *CFCSA* defines a party to the proceeding as those who appear at the commencement of the protection hearing.
- 122 *British Columbia (Director of Child, Family, and Community Service) v. K. (T.L.)*, [1996] B.C.J. No. 2554 (QL) (Prov. Ct.).
- 123 Conversation with child protection lawyer.
- 124 *CFCSA* ss. 20, 22.
- 125 Ministry of Children and Family Development (January 2003). *Administrative Procedures: Alternative Dispute Resolution and Court Proceedings under the Child, Family and Community Services Act*.
- 126 Marilyn Callahan and Swift (2007) "Great Expectations and Unintended Consequences: Risk Assessment in Child Welfare in B.C." in Leslie Thomas Foster & Brian Wharf (2007) *People, Politics and Child Welfare in British Columbia* (Vancouver: UBC Press), pp. 158–184.
- 127 Social Worker Interviews #1, 3, 4 and 5
- 128 MCFD, "Comprehensive Risk Assessment Tool," p. 38.
- 129 *Ibid.*, p.39
- 130 Callahan and Swift (2007).
- 131 *Ibid.*
- 132 *Ibid.*
- 133 Rycus and Hughes cited in Callahan and Swift (2007).
- 134 Up to three reasons for admitting a child into care may be recorded. Information obtained from MCFD DESA Branch.
- 135 *Joint Special Report*, p. 14.
- 136 MCFD (December 2006) "November 2006 report: Children in care, trends and indicators."
- 137 *Ibid.*
- 138 Firstcall B.C. Child and Youth Advocacy Coalition "B.C. Campaign 2000, incomes of families with children" (November 24, 2006).
- 139 Vancouver Status of Women (2004) "A new era: the deepening of women's poverty," p. 21.
- 140 Seth Klein and Andrea Smith. "Picking the Pockets of the Poor: The Price of B.C.'s Welfare Cuts" B.C. Commentary: Canadian Centre for Policy Alternatives. Vol. 9, No. 3 (Fall 2006).
- 141 *Ibid.*
- 142 Jane Pulkingham. "Bucking the National Trend: Poverty Among Lone Mothers" B.C. Commentary: Canadian Centre for Policy Alternatives. Vol. 9, No. 3 (Fall 2006).
- 143 Firstcall B.C. Children and Youth Advocacy Coalition "B.C. had the worst record three years in a row" Fact sheet #2 (November 24, 2006).
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- 170 Susan C. Boyd (1999) *Mothers and Illicit Drugs: Transcending the Myths* Toronto: University of Toronto Press p. 28.
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- 174 Harm-reduction models are premised on an understanding that negative outcomes associated with drug use are the product of more than the pharmacological properties of the substance in question. Rather, social and economic factors, the social setting in which drugs are consumed, criminalization and other punitive interventions, and social attitudes all have an impact on the relative harm caused by substance use. Harm reduction seeks to offer practical and non-judgmental support and to reduce the harm associated with drug use for both the individual and society. Harm reduction approaches originally emerged in the Netherlands and Great Britain in the 1980s in response to the growing HIV/AIDS epidemic among intravenous drug users. In Canada harm-reduction models were not widely adopted in Canada until the 1990s.



175 Boyd (1999), p. 90.

176 Sarah Payne (2007) "Caring not curing: Caring for pregnant women with problematic substance use in an acute care setting." In Boyd and Marcellus (2007) p.64.

177 See Sheway, www.vch.ca/women/sheway.htm.

178 The MCFD uses the term *Family Care Home* to describe family based foster homes and state, "family care homes are, by their very nature, community based. They provide a family environment, which is the preferred environment for the care and upbringing of children." www.mcf.gov.bc.ca/foster/foster_home_model/q&a.htm.

179 Article 27(2) states: The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and finan-

cial capacities, the conditions of living necessary for the child's development. Article 27(3) states: States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

180 *CFCSA* s. 21(3) states that in cases where a child is 12 years of age or older the director must explain the plan or care to the child and take the child's views into account before agreeing to a plan.

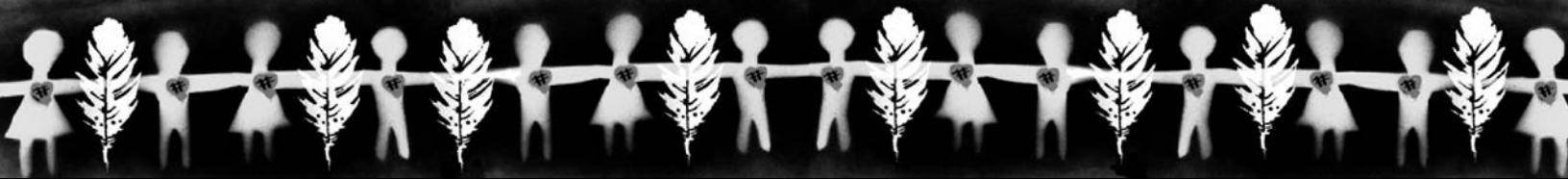
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