

THE CASE FOR
CULTURALLY
RESPONSIVE
SERVICES

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Message from the Child and Youth Advocate

I was appointed as Child and Youth Advocate on December 16, 2016. In accepting this appointment, I embraced a commitment to advocate for children and youth in Newfoundland and Labrador. Part of this work will necessarily involve formal investigations as this report reflects; but it will also involve establishing networks to ensure people and information connect for the benefit of our young people, and will always involve advocating for young people's voices to be brought into discussions about policies, services and programs affecting them.

Newfoundland and Labrador's Office of the Child and Youth Advocate is an independent office reporting directly to the House of Assembly and derives its authority from the *Child and Youth Advocate Act*. As Child and Youth Advocate, my role is to advance the rights and interests of children and youth, ensure they have access to services, and to provide information and advice to government and agencies.

This report responds to an investigation called by my predecessor in January of 2013. While time has passed, the issues raised in this report are quite timely. Professional cultural competence comes under the microscope with this case. In light of the Province's commitment to a new immigration plan, and the immigration targets identified in *The Way Forward*, a focused and renewed look at our practices in responding to a culturally diverse population is needed. Coordination of services and responses remains an ongoing issue. While advances have been made in this regard, further work remains.

Pursuant to Section 24(1) of the Act, our Office will continue to monitor and follow up on the recommendations arising from this investigation until they are all appropriately addressed by the applicable government department or agency. Status reports on recommendations are released annually.



Jacqueline Lake Kavanagh
Child and Youth Advocate

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Case Summary

This case involved a family that relocated to Newfoundland and Labrador from another country. The family lived in the province for four years and received multiple services from community organizations, and the Regional Health Authority (RHA). They became involved with the Department of Children, Seniors and Social Development (CSSD) when the Department received a Child Protection Report regarding parental physical abuse. Upon investigation, the children were deemed to be unsafe and were removed from parental care in accordance with Section 23(1) of the *Child, Youth and Family Services Act (SNL 1998)*.

A warrant authorized removal of the children. Multiple social workers and Royal Newfoundland Constabulary (RNC) officers met at the family's home to action the warrant. The mother was visibly pregnant and indicated that she was not fluent in English. Some of the responders were unaware of this until they arrived at the family's home. The mother advised that her husband was not home and requested that they return at a later time. After consulting with CSSD and RNC management, the social workers and police officers were directed to proceed with the children's removal in the interest of ensuring their protection. With the mother refusing entry, a forced entry was deemed necessary. Professionals reported that this removal was a traumatic experience for all involved.

The children were placed in temporary care and transitioned home over a period of months. The parents were required to participate in counselling, and other social supports were established. The parents had supervised visits while the children were in care. These visits included the assistance of a supervised access worker who spoke the family's first language. Throughout the family's involvement with CSSD services, interpretation services were not arranged for the purposes of conducting assessments. Though CSSD recommended debriefing for the children in multiple documents, there is no evidence this occurred. Further, while multiple professionals recommended a psychological assessment regarding one of the children, the service took more than ten months to arrange. When the children were in care, they did not attend religious events and activities which were a significant part of the family's routine and culture.

After the children were returned to their parents' care, the family relocated to another province. CSSD advised the new jurisdiction of the past involvement with the family.

Findings and Recommendations

The Child and Youth Advocate identified three primary systemic areas for improvement in this investigation. The first and core finding involves the need to eliminate barriers in the provision of culturally responsive services to refugee and immigrant families. These families may have experienced significant trauma prior to their arrival in Canada, and may have various practices and experiences with family dynamics and with child rearing practices. Stronger supports and assistance are required to help these families settle and to determine if additional services are required. Specific areas in this case include a need for focus on supports related to language, culture, and religion. Second, formal policy is required for collaborative practice between social workers and police in the planning and removal of children. Third, social worker training and education is required to ensure they have knowledge of appropriate mental health services and/or responses for children that experience trauma.

a. Diversity and Cultural Competence

As Newfoundland and Labrador works to increase its population to support economic growth, and welcome immigrants and refugees from diverse cultural backgrounds, the Province must also ensure that available services promote cultural competence. There are multiple examples throughout this case that demonstrate deficiencies in culturally appropriate responses and which identify opportunities for improvement in the provision of services that are diverse, inclusive and equitable. Specific areas of focus from this case include:

i. Culture and Language

Language and culture are intertwined concepts. However in child protection matters, and especially in the case where investigations occur and children are removed, language is a crucial issue. The family in this case would have benefited from appropriate interpretation services at the time of the removal of their children, as well as throughout their involvement with CSSD programs. Interpretation services in this case would have been beneficial to ensuring the parents had full comprehension of the circumstances regarding the removal (i.e. understanding the warrant,

and better understanding information related to the placement of the children), and for the purposes of assessing the safety of the children (i.e. completing safety and risk assessments). It would also better enable the parents to understand the interventions and the requirement for specific commitments on their part to prepare for their children's return. While the supervised access worker spoke the family's first language, her role was not to provide interpretation services and would not have been involved in other aspects of the services for this family.

This investigation revealed CSSD file documents with stereotypical beliefs and cultural generalizations. Further, there was incorrect information on file regarding the family's country of origin. This information demonstrated the lack of awareness by the professionals who worked with this family about the importance of cultural considerations in effective decision making.

In May 2016, the Newfoundland and Labrador Association of Social Workers (NLASW) adopted Standards for Cultural Competence in Social Work Practice. These standards, which were not in effect at the time of this case, inform best practice standards for social work practice with diverse cultures. Standard 3 stipulates: "*Social workers seek to understand the values, beliefs, traditions and historical context of clients and incorporate this knowledge into social work assessments and interventions (p.9).*" Further explanation of this standard directs that it is important that social workers acquire, or know how to acquire cultural knowledge relevant to the client. Preferably, the client should be the primary source of this information. The NLASW Standards for Cultural Competence in Social Work Practice are an excellent current resource to assist in education of cultural awareness and sensitivity in social work practice, and will serve to enhance the skills of social workers in Newfoundland and Labrador working with culturally diverse populations. The promotion of cultural competence as a core aspect of social work practice by the provincial regulatory body for social workers offers a framework and educational tool for provincial government departments and agencies.

Using this type of framework, the family would have been consulted directly based on their experiences. A more fulsome analysis of the family's culture would have informed a more appropriate intervention plan. The Risk Assessment and Client Referral Management System would have reflected information pertaining to the family's values, beliefs, traditions and historical context.

Article 2 of the *United Nations Convention on the Rights of the Child* (1989) stipulates that the convention applies to all children without discrimination, regardless of a variety of factors, including language. Any removal of children should occur in a way to ensure parents are given an opportunity to fully understand to the best of

their ability what is occurring and the rationale. Providing interpretation services would be in the best interests of children and youth. Further, all assessments involving a family should be completed fully without language barriers.

ii. Religion and Spirituality

Prior to the removal, the children were closely involved with their church community and attended weekly church services and Sunday School activities. The children did not attend their weekly church services and religious traditions while they were in care. Documents show the family brought forth concerns to multiple social workers involved in this case regarding the children not attending Sunday School.

Article 14 of the *UNCRC (1989)* recognizes a child's right to freedom of thought, conscience and religion. Section 3 of the *Child, Youth and Family Services Standards and Policy Manual (March 2007)* which was in effect at the time of this removal, provides an overview of factors to be considered when selecting a placement for a child. One of these factors included: "*the caregivers ability to support a child's religious and cultural background.*" In the current *Protection and In Care Policy and Procedure Manual (2011)*, placement considerations are to be determined by the best interests principle, including: "*...respect and cultivate cultural heritage, spiritual beliefs and identity.*"

In seeking to locate a suitable caregiver home for the children, access to their church and religious activities should have been considered as an important factor. In addition, efforts to coordinate safe access to such activities should have occurred. An important aspect of the provision of culturally inclusive services involves recognizing religion and spirituality as a right of all children and youth.

In November 2016, the Honourable Dwight Ball, Premier of Newfoundland and Labrador, released '*The Way Forward: A Vision for Sustainability and Growth in Newfoundland and Labrador.*' As part of creating a stronger economic foundation, Government plans to increase the number of immigrants, and by 2022 will welcome approximately 1,700 immigrants annually. Government officially released its approach to increasing immigration in the *Immigration Action Plan* on March 24, 2017. The Department of Advanced Education, Skills and Labour (AESL) is the lead department for this Plan. While it was clearly not a party to this investigation, AESL can have a significant impact in these types of cases in the future through its leadership with the *Immigration Action Plan*.

Recommendation 1

The Department of Advanced Education, Skills, and Labour, in consultation with all provincial government departments providing front line services to culturally diverse individuals and families, incorporate the following considerations into the Immigration Action Plan:

- (a) Cultivate and utilize culturally responsive interpretation services when needed;**
- (b) Ensure mandatory training for designated front line professionals in the area of cultural competence, diversity, and inclusion; and**
- (c) Review and evaluate services available to culturally diverse individuals and families to identify any gaps in services and areas for improvement.**

Department of Advanced Education, Skills and Labour response:

*“AESL is in the process of finalizing an Immigration Action Plan which includes specific initiatives to enhance awareness of multiculturalism and diversity, to expand cultural competency training, and to enhance and expand settlement services available to newcomers throughout the province. This 5-year Action Plan will be launched by government prior to March 31, 2017, with updates on implementation to be available to the Advocate and members of the public on an annual basis.”**

When the Department of Advanced Education, Skills and Employment provided its response to this report, the Immigration Action Plan had not been released

b. Collaborative Practice for Joint Removals

The removal of a child occurs when a less intrusive course of action that would adequately protect the child is not available. The process of a removal is inherently intrusive and potentially traumatic. Factors present in this case, including cultural and language barriers, and potentially the family’s history of trauma, can further

heighten the trauma experience. Given the context of this practice, a collaborative approach between social work and policing professionals involved in removals is crucial. This necessarily must involve a joint planning process which was absent in this case. Prior to removal of the children, professionals involved from the Department of CSSD and the RNC did not discuss critical factors pertaining to the family's situation, including language, culture, and gender. Some of the professionals involved were unaware that the mother was pregnant, and that there were language barriers.

Shortly after this particular removal, there was a protocol directed via memorandum to all CSSD and RNC staff. The protocol directs that once a social worker has completed an *'Information to Obtain a Warrant to Remove'*, CSSD staff is to notify the RNC. Prior to the removal, the social worker(s) will proceed to RNC headquarters to meet with RNC officers and supervisors to review case information and discuss any concerns, questions or issues prior to proceeding to the home. The memorandum noted that a working group planned to address protocols in a more formal way.

CSSD policies in the Protection and In Care Policy and Procedure Manual (2011) on the removal of a child with a warrant and telewarrant have since been updated to reflect the 2009 interim protocol. The updated policies direct consultation with the police over the phone or at the police detachment prior to a removal. At the time this report was drafted, the RNC interim protocol from 2009 regarding assisting CSSD with removals remained in place. RNC policies providing guidance to police officers assisting CSSD with warrants of apprehension have been updated; however, there is no reference to a required consultation with social workers prior to a removal. Given sensitivities with removing a child, it is imperative to ensure adequate planning and a coordinated effort occurs between both agencies. Formal policy is required and needs to be implemented to ensure that RNC police officers are aware of and compliant with the directive outlined in the memorandum, including the need for advance collaborative planning.

The Royal Canadian Mounted Police (RCMP) was not involved in this case. However in the interest of providing consistency in police assistance to social workers in the future, the RCMP must ensure it has a comprehensive policy regarding the process for assisting with removal of children. The RCMP has a policy for providing assistance to CSSD in relation to court orders. This policy does not stipulate that social workers and police officers consult to review case information prior to carrying through an order. To ensure comparable planning occurs in all policing jurisdictions in the province, the RCMP must review its policies for providing assistance to CSSD and ensure policy reflects an appropriate response including advance planning.

Recommendation 2

The Royal Newfoundland Constabulary develop and implement policy to formalize the protocol established in 2009 for RNC assistance to CSSD in executing a warrant to remove a child.

Royal Newfoundland Constabulary response:

*“Following the protocol developed in 2009, the RNC has since issued a Routine Order to establish a protocol in providing assistance to CSSD for the apprehension of a child with and without a warrant and providing assistance to CSSD when doing investigations under s. 12 of the CYCP Act.” **

*The Office of the Child and Youth Advocate confirmed with the Royal Newfoundland Constabulary that the above noted Routine Order includes the planning directives outlined in the 2009 memorandum.

Recommendation 3

The Royal Canadian Mounted Police develop and implement policy to direct officers to consult with CSSD prior to assisting the department in executing a warrant to remove a child.

Royal Canadian Mounted Police response:

“I am satisfied that our current policy parts, training standards and the 2016 Memorandum of Understanding with Child, Youth and Family Services adequately address the requirement of RCMP officers to consult with CSSD prior to assisting that department in executing court orders to remove a child or children from a home. All members are trained in the principles of the “Incident Management Intervention Model” and “First Response” and as such are expected to conduct a proper risk assessment prior to responding to any call for service. Their risk assessment would include, yet not limited to, the collection and assessment of all available and relevant information to mitigate any risk to public and officer safety. Consultation, collaboration and information sharing are key components to completing this risk assessment.

In the spirit of consistency, and further to your request in ensuring comparable planning occurs in all policing jurisdictions throughout the Province, the RCMP will however be adding an additional line specific to our court orders “Assistance to Child, Youth and Family Services” policy part directing our members to consult with CSSD and review case information prior to assisting them in the execution of any warrant to remove a child or children. It is worthy to note the police are the assisting agency in these types of situations with the primary responsibility of maintaining the peace and assurance of public safety. It remains the primary responsibility of CSSD to ensure they provide police with all relevant information when seeking assistance to allow police to conduct a proper risk assessment and plan for the appropriate and measured response to these highly emotionally charged situations.”

c. Mental Health Services

This particular removal was very difficult and professionals indicated that they, as well as the family, experienced a traumatic event. CSSD’s Plan of Care documents indicated that debriefing should have been provided to the children as a result of the events experienced. Interviews with CSSD professionals indicated inconsistent responses regarding the recommended debriefing and counselling services for the children. One professional was unsure if debriefing counselling existed, while another indicated it was common practice. Another professional explained that research indicated that debriefing was not deemed helpful for these situations.

Throughout the children’s time in care, social workers were notified about concerns for one of the children’s mental health. This child was not referred to the appropriate psychological services until eight months after the concerns presented, and it took ten months for the proper assessment to occur. These timelines do not keep with the spirit of policies for counselling services. There are several policies in the Protection and In Care Policy and Procedure Manual (2011) that stipulate the importance of ensuring counselling is provided for children who require services. Policy 3.21 directs that if services are not available or sufficient to meet the needs of a child or a youth then private services may be approved. Policy 3.23 further outlines that additional funds for counselling services may be provided to a foster parent(s) on behalf of a child or youth in the care or custody of a zone manager. While these policies reflect the importance of ensuring children and youth receive counselling if needed, there was significant confusion in this case about the types of services available and suitability for the children.

Recommendation 4

The Department of Children, Seniors and Social Development provide education resources to all front line staff on appropriate debriefing and mental health resources for children and youth.

Department of Children, Seniors and Social Development response:

“The Department of Children, Seniors and Social Development (the Department) fully accepts this recommendation. Policy currently reflects the importance of ensuring counselling services for children/youth in care to assist with meeting their developmental and emotional needs. Currently a social worker, in consultation with the child/youth, (where appropriate) and other members of his/her In Care Planning Team will refer the child/youth to counselling services where it is deemed necessary to help with an issue or concern. The Department is committed to and will ensure front line staff understand current policy in this area and are knowledgeable about available mental health and debriefing services for children/youth in their respective communities.”

Conclusion

The population of Newfoundland and Labrador has changed over the years and is expected to become more diverse in the future. As the Government of Newfoundland and Labrador commits to increasing immigration and prepares to implement its *Immigration Action Plan*, planning must occur so that services and responses are inclusive, diverse, and culturally responsive. In welcoming individuals and families to the province, Newfoundland and Labrador will experience social diversity and cultural vibrancy. However it will be crucial to take time to reduce and eliminate barriers that exist within the public service so that these families can settle and thrive in their new home.

While this report largely addresses cultural issues related to newcomers to Newfoundland and Labrador, it is important to recognize that the message in this report is equally relevant to supporting and responding with Aboriginal communities. Stronger effort is required with Aboriginal communities to ensure more culturally sensitive and responsive services. In keeping with the development of good public policy practices, those directly affected will need to be included.

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Appendix A

Investigative Documents and Interviews

Documents Reviewed:

Department of Children, Seniors and Social Development

Protective Intervention File

Individual In Care Files

Department of Health and Community Services

Regional Health Authority File

Community Health Records of all children

Janeway Records for the children

Department of Justice and Public Safety

Royal Newfoundland Constabulary

All records regarding the children

Department of Education and Early Childhood Development

Regional School District File

All records regarding the children

Childcare Centre

All records regarding the children.

Investigative Interviews:

Investigative interviews included officials/staff with:

- Department of Children, Seniors and Social Development
- Royal Newfoundland Constabulary
- Childcare Centre
- The family



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