

THROUGH THEIR EYES

The Lives of Children and Youth Living in
the Care of the Province



Défenseur des
enfants et de la jeunesse
du Nouveau-Brunswick



New Brunswick
Child & Youth
Advocate

Child and Youth Advocate (Office)

The Child and Youth Advocate has a mandate to:

- ensure that the rights and interests of children and youth are protected;
- ensure that the views of children and youth are heard and considered in appropriate forums where those views might not otherwise be advanced;
- ensure that children and youth have access to services and that complaints that children and youth might have about those services receive appropriate attention;
- provide information and advice to the government, government agencies and communities about the availability, effectiveness, responsiveness, and relevance of services to children and youth; and
- act as an advocate for the rights and interests of children and youth generally.

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“Try to see the situation through our eyes, not just through whatever the rules say you have to do.”

A youth in care

DEDICATION

*To every child who has been in the care of
the Province*

*To every social worker doing everything
they can to better children's lives*

*To every caregiver in foster homes and
group homes supporting children*

*To every family member stepping up to
provide love, comfort and attachment*

*To everyone working in community
organizations supporting children and youth*

It can improve.

Thank you for your time and insight during this review

All the children and youth who spoke with us

New Brunswick Youth in Care Network

Those who have aged out of care

Child-in-Care Social Workers

Child Protection Social Workers

Group home operators and staff

Foster care providers

Concerned family members

The New Brunswick Association of Social Workers

Teachers and School Administrators

School district officials

Early childhood development experts

Nurses

Annette Bourque

Pediatricians

Integrated Service Delivery professionals

Saint Thomas University School of Social Work

L'Université de Moncton School of Social Work

Child and Family Services Agencies

Youth Workers

Police officers

Probation officers

Family Crown council

NB Legal Aid

Partners for Youth, Inc.

NB Adoption Foundation

Mental health professionals

“It has been mentioned to me, not infrequently, that publicly raising concerns about the child welfare system can scare new social workers away from working in this area. I cannot agree with a claim that new social workers are better off kept in the dark about the work they will undertake – which is some of the most challenging work imaginable. The child welfare system can never improve if we all cannot face the truth.”

Norman J. Bossé, former New Brunswick Child and Youth Advocate

“When it is necessary to remove children from the care and supervision of their parents they should be provided for, as nearly as possible, as if they were under the care and protection of wise and conscientious parents.”

Preamble to the New Brunswick Family Services Act

“These aren’t our kids. They just aren’t our kids.”

A group home manager

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Executive Summary

This report is the result of interviews with hundreds of people involved in the child welfare system, coupled with extensive research and analysis. Beyond the input of children and youth receiving government care, and experts in the field, we have relied on child development research; evidence-based best professional practices in Canada and beyond; legislation, regulations, policies and practice standards in New Brunswick; and guidance from international human rights bodies.

Children and youth are taken into care as victims of abuse or neglect, or having lost their parents. At a time when they are most vulnerable, too many suffer in a government-regulated system that is unstable. Social workers, foster parents, group home staff and kinship care providers are constricted by limited supports and an overabundance of bureaucracy. Decision-making in child welfare is inherently hampered by unpredictability, but it should not be also hampered by a lack of resources to holistically respond to the problems children and youth face within the system. Training in human rights, trauma-informed care, and child and adolescent development is severely lacking for those providing the care and supervision of children and youth in group homes, foster homes and support services. Staff turnover in group homes is extremely high. There is a dire shortage of foster homes. The province does not yet have treatment-based homes for very complex-needs children and youth in government care. Youth too often leave the system to become homeless, poverty-stricken and health-endangered.

The Advocate is hopeful and even optimistic that these and many other problems in the child welfare system can be overcome. We believe that current management personnel in the Department of Social Development have the expertise and the will to effect profound and meaningful changes. The child welfare system in New Brunswick is also full of deeply committed foster care providers, group home professionals, social workers, and child and youth workers. The problems within the child welfare system do not lie in the abilities and dedication of people working in it – they lie in the structure of the system itself. It requires the resolve of those at the highest levels of decision-making to solve those problems.

Several systemic issues hamper continuous improvement in the child welfare system. From the Advocate's perspective, the most significant problem in the child welfare system is that the system has for a long time suffered from a reluctance to truly hear from, and give credence to, the opinions of the children and youth it serves. The situations that come to the attention of the Advocate in the course of the office's daily work are invariably sad, and often shocking. What we learned from this review is that those situations that come to our office very often reflect problems that exist for a multitude of children and youth throughout the child welfare system.

However, the problems remain hidden from the Department of Social Development because there is a major data deficiency within the Department. The Department

collects very little information about the children and youth in its care, and therefore is unable to identify and act upon systemic problems. In the child welfare system, cumulative data is not meaningfully and comprehensively tracked to measure the effectiveness of services. The Department does not track important information on the education or health of children and youth in care. It does not track how many times on average a child will be moved from one placement to another. Children and youth are moved between foster placements and group homes when the system does not have enough available residential resources. The Department does not know how many children and youth in care have disabilities. It does not know how many refuse to allow the Department to provide services when they turn sixteen. It does not know how many go on to jobs, college, or university when they leave care at nineteen. Because the system does not collect adequate information about the lives of children in it, the Department operates to a large extent on uninformed assumptions.

The lack of data causes a second problem, which is an over-reliance on process at the expense of judgement and compassion. There are two possible ways to make people in a system accountable. They are either accountable for results, or accountable for process. When an institution does not track results, management quickly becomes overly reliant on rigid rules. Often, social workers with exceptional training and compassion are responsible to follow procedures rather than use judgement as to what a child needs to succeed. The result has been the bureaucratization of compassion, where front-line staff are incentivized to first ask “what am I told to do?” instead of “what does the child in front of me need to succeed?”. It is not effective management when we know if all the procedures were followed but we have no idea how often they helped children. We know if a \$5 purchase is made outside the regulations, but we do not know if after millions of dollars and a few decades if any of those expenditures helped children graduate, get a job, or escape poverty. It would make more sense to give front-line workers flexibility and measure their effectiveness in actually helping children. This will require a change in culture from measuring compliance to measuring results.

The child welfare system in New Brunswick also suffers from a lack of adherence to human rights standards. Presently for children and youth in government care, rights are violated without adequate government oversight or guidance. Around the world, legal rights of children and youth in government care are protected in legislation, but not so in New Brunswick. The Advocate has called for the incorporation of the general provisions of the United Nations *Convention on the Rights of the Child* into provincial law. In addition, legal rights detailing specific protections for children and youth in the care system should be included in child welfare legislation. Furthermore, all children and youth in the system must be informed and continually reminded that they have an Advocate to turn to.

In a child rights-adhering system, children and youth in the government care system must have accessible and effective means to lodge complaints about their treatment. Inequalities must be addressed, such as how the system provides lesser protection for children and youth who live in government care for years but who are not brought into the legal status of 'guardianship'. The best interests of the child must guide more timely actions in a system that is currently fraught with delays in planning, decision-making and legal processes. Decisions about resourcing that threaten to inhibit the formation of positive and lasting relationships, disrupt education, delay health services, and hamper connections with extended family, must always focus on the child's perspective. When the Department of Social Development provides services to an Indigenous child or youth, it must do so with comprehensive understanding and attention to Indigenous rights. These and other aspects of a truly child-rights respecting system are lacking presently.

In sum, social workers within the child welfare system need more flexibility to connect with children and youth, more legal guidance when they need it, fewer administrative burdens, and more time to undertake professional development training in the rights of children. Social workers must also be assured that they can express their own concerns about cases or the system in general, both within their Department and through contact with the Advocate.

While the system will never be perfect, there must be a willingness to accept challenge and change. There is a general lack of continuous improvement within the Department of Social Development. This is exemplified in the fact that the Department does not prioritize the regular updating of practice standards and protocols – some have not changed in more than a decade.

Our experience has been that the Department of Social Development has, over the course of many years, become an increasingly closed organization culture. What we heard from a multitude of professionals is that the child welfare system does not listen to or learn from professionals beyond the Department of Social Development. It is a reactive system with little foresight. It is a system that is continually unprepared to address the crises that arise. Professionals with important knowledge and expertise such as public health nurses, neonatal nurses, doctors, teachers, mental health professionals and community policing professionals, academics and community service providers are not utilized by the Department of Social Development.

The Department also lacks public accountability and transparency in child welfare services. Practice standards and policies are not made publicly available and are even kept from the children and youth impacted by them. There is very little information about the operations of the Department in general available online, and what information there exists is often inaccurate. What we have found is that children and youth in the system

find it difficult to understand, and the general public has no real notion of what the lives of these children and youth in government care are really like. Society has an expectation that children taken into government care will receive the supports they need to not only survive but thrive, and the Department of Social Development has obligations to show the public how it is meeting this expectation.

Decisions at all levels in the child welfare system lack the guidance and legitimacy that a child rights lens can provide, and there is little effort to show the public how decisions are made and what actions are taken to ensure the best interests and maximum development of children and youth in care. Therefore, through this report and its list of recommendations, we are advocating for a new focus to create a human rights-based child welfare system, with greater transparency, accountability, collaboration, and responsiveness.



FOREWORD

One of the indelible moments in any parent's life is the birth of their children. In those overwhelming moments when we first meet the gaze of the tiny person we are called upon to love and care for, an array of thoughts run through the parent's mind. Often, we whisper promises to our children as we welcome them to the world. We promise to love and protect them, to make sure they are safe and cared for, to give them what they need to learn and succeed, to celebrate who they are and the strengths and interests and passions they will develop. For most of us, these whispered promises are the most important commitment we will ever make.

At any given time, the Minister of Social Development is the legal parent of 1,000 or so children. The "Minister" of course, is a legal stand-in for all of the public servants who can act in her name and, really, for all of us in whose name government acts. These children, through no fault of their own, are now reliant upon government to act *in loco parentis* – in the place of a parent – and meet those promises that every child deserves.

Does government live up to those promises that every child deserves? And, through them, do we as a society deliver what we owe these children?

The team at the Office of the Child & Youth Advocate spent months asking the people who should know – those who have been children in care themselves. In this report, you will hear stories and observations and suggestions from those who know first-hand what the child's experience is like. Our policy review starts from these first-hand stories. We have tried to honour these stories by connecting them to policy changes that will make the system better for the children who rely – and will rely in the future – upon it.

We have learned a great deal from this process. There are many stories that are a joy to hear. There are indeed times when a dedicated social worker gives a child hope and security, when a child perseveres and succeeds, when a judge showed compassion and wisdom in hearing a case, when there is a happy march across a graduation stage.

We also learned many things that concern us. We learned that government does not bother to know things a caring parent should know, like how its

children are doing in school, whether they are coming home at night, or how they do when they grow up. This must change. We found policy blind spots, like the lack of support for children who buck the odds and get accepted to post-secondary education only to find that their “parent” imposes a more restrictive set of rules than we believe a caring parent would. We heard from front-line social workers and others what they need in time, resources and training to make the kind of difference they want to make in the life of a child.

It is a paradox known to many a parent that children can act in the least lovable ways when they are most in need of love. Children in care have often been through traumas that would set back the most high-functioning adult. Children do not have our experience or our emotional vocabulary to express what they need, or even to know. Often behaviours that are normal responses to trauma can draw institutional reactions that drive the child away from the very help and support they need. It is our job to ensure that, as much as is possible, we respond to children in crisis with the patience, forbearance, and unconditional acceptance that parents show their children.

This is easier when you hear children speak in their own voice about their experiences, their journeys and their hopes for the future. They want what we all want, and they feel as we all feel. They often have not had what many of us take for granted, and what they deserve. For all those who work to fill that gap, we are grateful.

I want to acknowledge the work of the whole team here at the Office of the Child & Youth Advocate, including my predecessor Norm Bossé, who took the time to listen, compile and learn from these stories. I especially want to thank the young people who entrusted our team with their stories and their ideas. It is my hope that we have done justice to them.

Naturally, a review like this is going to focus on things that can be improved, and that inevitably means citing problems. No one should see this as a condemnation of those who have worked on the system. If we went back 100 years, to a time our grandparents knew, we would see many

improvements in the experience of children who have family instability. There would be a professionalization and a structure of child welfare that would be a vast improvement. Highlighting the distance we have yet to go does not repudiate the work of the past – we honour it by demanding that we constantly improve. We do not honour the past by being smug or satisfied with what is; we honour the past by constantly asking what could be.

I know a young woman who, like many of the children you will hear from in this report, grew up relying on others to help where her first family failed her. She had a small tattoo of a dandelion. As she prepared to go to university, having earned that opportunity, an educator she had come to trust wished her well. That educator told her that she was like a dandelion, because she was resilient enough to grow anywhere. This inspired that young person to face down challenges and resistance that might have defeated someone else. It is wonderful that she found adults willing to show that kind of investment in her success, and remarkable that after all her early experiences she could still seek, trust and accept help from adults.

The young people you will hear from are proving to be resilient as dandelions, too. They deserve every effort we can offer to make the terrain in which they grow a little gentler, a little kinder, a little more forgiving. Despite having been given far less than children deserve, they have exceeded their responsibility to keep trying at every turn. They have done everything we could ask and more. The question now is simple – will we meet our responsibility to them?

Kelly A. Lamrock, Q.C.
Child & Youth Advocate
Province of New Brunswick



PART 1.

INTRODUCTION

THIS REPORT

What we are advocating for essentially is greater transparency, accountability, collaboration, responsiveness, and external review of the child welfare system.

This report is guided by two essential questions. The first question is whether the legal rights and human rights of children in the child welfare system are being respected. The second question is whether the child welfare system is living up to our collective expectations about how children are to be treated. In other words: (1) is government doing what the law requires them to do for these children? and (2) are they doing what a good parent would expect them to do?

The *Canadian Child Welfare Research Portal* defines ‘child welfare’ as follows:

“Child welfare” is a term used to describe a set of government and private services designed to protect children and encourage family stability. The main aim of these services is to safeguard children from abuse and neglect. Child welfare agencies will typically investigate allegations of abuse and neglect (these activities are called “child protection services”), supervise foster care and arrange adoptions. They also offer services aimed to support families so that they can stay intact and raise children successfully.¹

We define the term ‘child welfare system’ more broadly than that definition, to include all aspects of prevention of child abuse, neglect and preventable harm, actions taken to address abuse, neglect and harm after they occur, and services to provide rehabilitation, stability, and permanent caring connections. In our view, the child welfare system must be more encompassing than the legal mandate attached to the Department of Social Development and must include all government actors and civil society engagement.

The primary focus of this report is *not* about child protection services – the part of the system that investigates and reacts to situations of abuse and neglect. The focus for this report is on what happens to children *after* a child protection investigation. However, there remain problems that the independent review of provincial child protection services in 2018² did not have a mandate to address. Therefore, we have added a section on the prevention of child abuse and neglect, and the functioning of child protection services, at the end of this report.

There are essentially four ways a child can be brought into care. The first is that the child’s parents have died or become incapacitated and no other family members exist or will take them in. The second is that the child has been severely physically, sexually, or

psychologically abused by parents or those with parental authority. The third is that the child has been chronically, and severely, neglected, such that the parents aren't really parents by any decent standard. The fourth is that the parents cannot handle the behaviours of the child or manage the child's needs, and request that the government take custody of the child.

In our work we see children who have come into care in each of these ways. The tragedy may be behind them, but the trauma is not. When James was an eight-year-old his parents died, and he was taken into care and was placed in a group home with teenagers. Lucy was sexually abused and not believed for months while it occurred. Hayden was chronically neglected for years before finally being taken into government care, where he began to gorge on food after having been deprived so long. When Candice was eleven years old, her mother told her that her birth was a mistake, that she should have been aborted; her mother asked the Department of Social Development to take Candice into care. Liam had parents who simply could not manage his disabilities. All of these children were placed into a child welfare system meant to protect them and provide them what they are missing; yet this placement itself is traumatizing.

Suddenly being taken away from parents, friends, and even siblings, is unquestionably a shocking blow to a child's sense of stability. These children are, to a large degree, left to the solitude of their own worries, scared of what the next change may be. They are then far too often subject to abrupt moves with little warning, separation from siblings in placements, and no connection to their wider family or cultural identity. The shock of being taken into care is trauma-inducing, and these children and youth are understandably not as adaptable to change and stress as an average child would be.

In the big picture, New Brunswick citizens should all feel assured that the children taken into the province's care enter a system that is truly, and solely, child-focused at all times. This means a system wherein children and youth have a say about what happens to them. It means a system wherein social workers are provided the liberty to focus on their clients, the children in care. It means a system where all stakeholders are devoted to improving the lives of these children who have borne more suffering than anyone should have to endure. We spoke during this review with several hundred stakeholders, including children and youth, social workers, group home professionals, foster care providers, kinship care providers, concerned parents, nurses, teachers, school district officials, lawyers, police officers, elected officials, mental health professionals, academics, Indigenous experts, youth support workers, probation officers, justice system officials, doctors, and various not-for-profit organizations. Everyone had a lot to say, and the exasperation felt by all was palpable. The quotations included throughout this report were chosen only if they reflected comments made by multiple other people with whom we spoke.

We requested many statistics for this review. We request statistics routinely from government Departments. In this case, however, after many months, as this report was preparing to go to print, we had still received no data from the Department of Social Development. There are undoubtedly human resource issues and technology issues at the Department that are the reasons for this complete failure to provide statistics. Those reasons, however, do not adequately address the legal obligation of providing the Advocate with requested information. More importantly, those reasons reflect an inadequate level of attention to children in care.

Different regions will identify with some of the issues addressed in this report and not others, or at least will identify more with some than with others. We do not intend to paint the system with a broad brush, although the issues we have decided to focus on are all, we feel, present across the province to various degrees.

We have attempted to distill the information as much as possible, always feeling torn when not including particular stories from young people or from professionals, or when not having the space to fulsomely address some issues even though they are important. Inevitably, though, the report cannot be as exhaustively comprehensive as we would like, as it would run to thousands of pages.

One last thing to note at the start is that generalizations sometimes cannot be avoided, and readers should bear in mind that a condemnation of situations in one group home or foster home should not be a condemnation of all of them, and nor should examples of poor practice by professionals be a condemnation of all professionals, or any in fact. It is the system that prevents the care needed. The situations in child welfare become ever more complex with increasing breakdown in community supports, less extensive family connections, more prevalence of mental health issues and addictions issues, and increased poverty. Nevertheless, there are huge numbers of people working throughout the system with true compassion, drive and hope. We owe these people a great debt of gratitude. They help make the lives of children in government care better.

THE OFFICE OF THE CHILD AND YOUTH ADVOCATE AND OUR WORK

The Provincial Child and Youth Advocate is an officer of the legislative branch of government. Our mandate is to ensure that the rights and interests of children and youth are protected. In this sense we function as a due diligence measure in regard to actions of the executive branch of government and as an advisor to the legislative branch. However, *we cannot make orders*. We have only a power of recommendation. We operate with the understanding that government actors do not wish to violate the human rights of children and youth, and we find that government actors are usually willing to remedy any violations.

We give due deference to the decision-making expertise of professionals in all child and youth serving areas, be it child welfare, education, health, the justice system or elsewhere. This does not mean that we assume that what they are doing is correct. However, very importantly, it means that we do not assume what they are doing is incorrect. If there are reasonable reasons for professionals acting as they do, and the actions are in accordance with practice standards, the actions of the individual professional are reasonable. But there is another aspect to our scrutiny. Even if actions are in accordance with practice standards, regulations and legislation, we will look more deeply into whether these government-crafted instruments are in accordance with the rights of children and youth. In this regard, we advocate for changes to practice standards. Or policies. Or regulations. Or legislation.

One of the primary problems with the child welfare system is the lack of processes to look at the system as a whole and identify what needs to be improved. The system cannot function well if it resists change – resistance to change means atrophy in the child welfare system. New Brunswick has child welfare legislation (the *Family Services Act*) that has not undergone a comprehensive review in four decades. It is welcome news that the Department has recently been developing standalone child welfare legislation, but we have not seen a draft and therefore cannot comment on its provisions.

The Province has various child welfare practice standards that have languished for a decade before being updated and many updates are still long overdue. There are child victims of abuse and neglect protocols that have not been updated in fifteen years and which no professionals we encounter actually use (or often even are aware of) because they do not reflect current realities. It is the Advocate's belief that Government should be undertaking comprehensive reviews of the entire child welfare system on a regular

basis, and this should be a legal requirement embedded in legislation. Furthermore, legislative amendments to child welfare laws should require consultation. The Department of Social Development did undertake some consultation prior to undertaking the drafting of upcoming new child welfare legislation, and this was a very commendable and welcome shift from the Department's previous practice. However, the Department has refused to share a draft version of the new legislation with the Advocate. We look to our neighbouring province of PEI which is currently tabling new child welfare legislation, and which shared an advance draft with that province's Child and Youth Advocate, and we wonder why such an approach which is obviously aimed at the best possible outcomes for children cannot occur here in New Brunswick.

The cases we see

While our mandate is not limited to the child welfare system, we are nevertheless involved in many matters within that system, and with children and youth who have suffered repeated abuse and neglect. We advocate in situations where children and youth are left in situations of high risk. We advocate in situations where children are moved repeatedly and separated from siblings because there is a lack of places to put them. We see children's education suffering because they are not receiving needed supports in school. We see children not receiving the mental health supports they need to address their trauma. We see simple requests meeting bureaucratic roadblocks. We see the wishes of children and youth ignored by decision-makers. We see fundamental human rights being violated. We see youth leaving care and risking homelessness at the age of sixteen just to get away from the child welfare system. Our office can help to correct these problems in individual situations that come to our attention, but only government Departments can correct the system to stop these things from happening.

The Department of Social Development works to minimize a child's time in the child welfare system and to maintain family or kinship connections. Nevertheless, children can spend years being moved from one group home to another and in and out of foster care placements. Disadvantage becomes cemented in their lives. The disadvantages that these youth have from childhood continue to accumulate as they proceed through adolescence and into adulthood.³

Some children and youth we have met in government care are deeply struggling, some are focusing on surviving, some are managing to maintain good mental and physical health, and some are even thriving. But it is without question that all are faced with far more adversities in life than most children face. This heightened adversity leads to increased likelihood of negative outcomes. However, it is essential that we all realize that these children and youth are constantly overcoming obstacles and succeeding in

many ways. They need fulsome support and encouragement. We have seen the successes in our caseloads, as advocates for children and youth in care. We unfortunately also, due to the nature of our work, see the problems. And, as we believe this report demonstrates, there are many.

The rights for which we are mandated to advocate

The system is a far cry from full adherence to the human rights of children and youth in care. Children and youth in care have lives that are largely hidden from the public. Rights are important for everyone, but especially for such a vulnerable population who lack the power to exercise much agency over their own lives. The Advocate would like to see legislation, practice standards, and child-friendly processes that allow each child and youth in care to fulsomely participate in the upholding of their rights. The child welfare system should be a system founded on 'child rights by design'. Every aspect of it should be rights-focused. Child rights practice is truly child-centred practice, and it requires listening to how children and youth perceive the system. This requires a child welfare system that has processes in place to get constant feedback, and to analyze that feedback.

Government's legal requirement of responding to the Advocate's information requests

Our office's governing legislation, the *Child, Youth and Senior Advocate Act*, provides access to information powers that allow the Advocate to obtain any document other than those protected by solicitor-client privilege or Cabinet privilege: "Notwithstanding any other Act or claim of privilege, and subject to subsection (3), the Advocate has a right to all information and documentation that is necessary to enable the Advocate to perform the duties and exercise the powers under this Act."⁴ It unfortunately must be said that during the course of this review Department of Social Development officials have been either incapable or unwilling to respond in a timely fashion to information requests from the Child and Youth Advocate. In our experience, no other area of government is as slow and seemingly unconcerned as the Department of Social Development's child and youth services branch when it comes to providing our office with requested information. Simple requests too often take multiple emails and phone calls, and then still often require moving up the managerial hierarchy of the Department to get action. It is unacceptable. We trust that this will change.

Having said that, the previous Minister of Social Development is to be commended for her decision to allow the Child and Youth Advocate access to the Department's case

management system. What then happened, though, is that the restrictions on access demanded by officials at the Department of Social Development were so onerous that it was in the end determined by our office to not be worthwhile accepting the Department's demands. As a result, our office still cannot directly access the Department of Social Development's case management system to improve the efficiency of our advocacy.

Our advocacy and Indigenous children

We firmly believe in the importance of upholding the rights of Indigenous children in the child welfare system. The present report concerns children and youth who are receiving care through the provincial Department of Social Development. Some of those children and youth are Indigenous. However, most Indigenous children and youth in New Brunswick in the child welfare system receive services through independent First Nations Child and Family Services Agencies rather than Social Development. Our review was not a review of First Nations Child and Family Services Agencies. While we do raise many issues in this report that are particular to Indigenous children, we have not heard from Indigenous children and youth living in First Nations communities during this review, only from Indigenous children living in group homes or foster homes outside of First Nations. In fulsome respect for the rights of Indigenous peoples to collective self-determination, as enshrined in the UN Declaration on the Rights of Indigenous Peoples,⁵ and reflected in the International Bill of Human Rights,⁶ we would not undertake such a review unless requested to do so by First Nations. We would like to follow up the work undertaken in our office's *Hand in Hand* report⁷ but only under the direction of First Nations governments.

THIS REVIEW OF CHILDREN'S LIVES IN CARE

We met with children and youth in care from areas around the province, with a range of ages, languages, and circumstances. These children and youth are highly capable, full of promise, articulate and polite. They had many concerns in common. Still, some concerns are not universally shared; individual lives vary and their experiences in the system vary.

We also met with social workers, supervisors, head office staff, families, contracted service providers, medical professionals, education professionals, police, lawyers, group home operators and staff, foster home providers, probation officers, psychologists, associations and non-governmental organizations, academics and various experts in child welfare.

Meeting developmental needs, addressing social and mental health issues, and ensuring optimal educational opportunities all require significant improvement in the system. What is also crucial is improving the delivery of services to children and youth, through collaboration with professionals outside of the Department of Social Development. And for government, as the parent of these children, to truly understand the lives of children in care and how the child welfare system impacts them, data must be collected, analyzed and acted upon. This is woefully lacking in New Brunswick. Throughout this report we note data requests that the Department of Social Development could not fulfill. It is shocking to see how little attention is paid to understanding the outcomes of the child welfare system.

The term 'Permanency' in the child welfare context refers to the goal of establishing stable, long-term connections for children.⁸ In essence, it means having a permanent family to be a part of. A safe, nurturing home is the goal for each child in the child welfare system. It is not the reality. Child protection social workers focus first on ensuring the safety of the child and then, when possible, on keeping families intact. When removal is necessary, return to the home usually remains the goal. New Brunswick is no different in this regard than jurisdictions around the world. Best practice in child welfare focuses on reduced reliance on foster home and group home care. This is where New Brunswick has been increasingly seeing poorer outcomes. Long overdue improvements to kinship care have begun in this Province after legislative and regulatory amendments in 2020, and this holds huge promise, but at the same time foster family recruitment remains a huge challenge. There are simply not enough foster care providers. As a consequence, group homes have to care for ever-younger children. Permanency is, for many children and youth, difficult to attain. In the meantime, they too

often remain in unsafe home situations or grow up in government care without being afforded all their fundamental human rights.

What children in care deserve

- ✓ Respect
- ✓ Genuine and fulsome acknowledgement of their human rights.
- ✓ Information about what is happening to them.
- ✓ A say about decisions in their lives.
- ✓ An easy way to ask for help and receive it.
- ✓ Stability not to be shuffled from one living placement to another based upon the convenience of the system rather than the needs of the child.
- ✓ Connections to supportive family members.
- ✓ Connections in their communities to supportive organizations.
- ✓ Connections to supportive peers.
- ✓ Adult champions who offer care, patience and kindness.
- ✓ Solid and consistent support for their education.
- ✓ Continued support into early adulthood.
- ✓ Care in all its forms, coupled with patience and kindness.



PART 2.
CHILDREN AND
YOUTH IN CARE

HOW CHILDREN COME INTO CARE

“When children come into care, they are in a grieving period for at least a year.”

A Child in care social worker

“It was a shock to me. I had five minutes to get ready and they brought me to the group home. I didn’t know. No one told me.”

Fifteen-year-old female

“Police took me to an emergency foster home. I wouldn’t go back to my mother’s. I loved my time at that emergency home. They were warm and they welcomed me into their house.”

Eighteen-year-old female

From what the Department of Social Development has been able to provide us in this review, we conclude that the Department does not effectively track, monitor and publicly report information on the number of cases in which child victims have suffered neglect, physical abuse, sexual abuse or psychological maltreatment. The Department does not effectively track and monitor the number of children exposed to domestic violence. The Department has no way of knowing the number of cases in which the perpetrator of abuse or neglect was a mother, father, other family member, or someone who interacted with a child through a civil society organization. Social workers on the front lines of child protection and child-in-care services may have an understanding of the lives and needs of the specific children they provide services to, but the Department does not have a comprehensive picture at the macro level. Social workers in New Brunswick are seeing babies with withdrawal symptoms at birth from the drugs their mothers ingested while pregnant. They are seeing three-year-olds with complex behavioural problems and seven-year-olds who are “out of control.” They are seeing the stark reality of child abuse. As a province, though, we do not get to see how well or poorly the system is working for these children, because the child welfare system here is not transparent, even to itself.

Children usually come into care from complicated upbringings. They are not only the victims of a sole tragic event that has brought them into care. There can be a cyclical aspect of neglect and abuse. It is not uncommon to discover that the parents of children in the system also grew up in government care; during this review we met a child living in the same group home her mother had lived in. The situations they come from can be diverse, but they tend to share the common aspect that there are a multitude of

challenges in their lives. One universal aspect is that children come into care through trauma. They have been severely abused or neglected, or they have lost their entire family. Fear, shock and even self-blame can incur Post-Traumatic Stress Disorder in child victims of physical and psychological abuse or neglect.⁹

The trauma of abuse and severe neglect in childhood can disturb neurobiological development in ways such as altering a child's ability to respond rationally to stress. That is to say, a child's stress response system can be set to react with a 'short fuse,' leading to behavioural issues that adults may reflexively react to with harsh discipline.¹⁰ While they have been taken out of abusive or extremely neglectful home situations, at the same time their support systems have often been utterly disrupted. Most of these children and youth therefore require extra educational and health supports.¹¹ They need far more help than the average child. In many respects they get considerably less.

Substance abuse, aggressive behavior, and various forms of self-harm can become means of coping with the trauma of the abuse and neglect they have suffered, and the stress of being taken into care.¹² Victims of abuse and neglect are more prone to psychological problems such as anxiety, fear, stress, insecurity, low self-esteem, feelings of rejection, attachment issues, alienation, depression, suicidal tendencies, and heightened vulnerability to cognitive, social and psychological impairments throughout their entire lifetime.¹³ Self-harm is a way children and youth in these situations sometimes control emotional pain. Self-injury can have effects similar to those of drugs, with the release of endorphins that create a temporary feeling of relief. It is a dangerous coping mechanism, as are drugs, alcohol and extremely risky behaviour. These children and youth require intensive rehabilitation and ongoing support. The link between adverse childhood experiences, such as abuse and neglect, as well as health problems and social problems for children when they become adults, has been well established.¹⁴ The Auditor General of New Brunswick is not given to hyperbole, and it is therefore very starkly sobering to read in one of her reports that "Inadequate care of these children can have disastrous consequences, contributing to suicide attempts, addictions, long-term mental health challenges and homelessness."¹⁵

The prospects are not completely dire, however. Children who grow up in environments with low levels of conflict, wherein children are free to express their views and are supported and understood, generally have higher self-esteem,¹⁶ physical and mental well-being and resilience.¹⁷

WHAT CHILDREN AND YOUTH IN CARE NEED FROM THE SYSTEM

“Kids need to be able to get out more in the community, to have more freedom.”

Thirteen-year-old in care

Children and youth told us they want honesty from people providing services to them, information about what is happening to them, and social workers and support staff who are reliable. Some have wishes that are very specific (“I want someone to instruct me in art – I love drawing.”). Some want to understand how the system works (“We want to know about the programs that can help us.”). Some want to get out of the system and assert some independence, with some help (“I want someone to show me what’s possible. I am better now. I want to live on my own.”).

Social workers, supervisors and managers tell us that what children and youth most want is to stay at home or in the family. If not, they want to be adopted. They usually want to have contact with members of their family. These professionals also know that children and youth want to have a social worker they relate to, and they want to keep the same social worker throughout their time in care.

A great many of them have simple dreams for the future. We heard dozens tell us that they wanted a job, a home, a relationship and children. They want to finish school. They want to get a driver’s licence. They want a pet. These simple things are not simple for them. Many told us they want to make a difference and change things in the child welfare system. Many said they just want to be happy.

The best experiences of children and youth in care, in their own words

“Of all my accomplishments, I’m especially proud that I was there for my little sister and we were never separated.”

“They paid for my orthodontic care so that I have beautiful teeth.”

“I have more stuff that I need, like clothing.”

“Trips with my foster family. We went to Quebec City, PEI and Moncton.”

“Being out of my mother’s care and being cared for.”

“Travelling with my foster family. I ate a lot of seafood on a trip to PEI with them.”

“The two trips we made to Quebec in a group and with the [group home] staff.”

“Education. My mother would not have been able to help me at this level and I’m very happy to go to college and to have help from [foster parent].”

“We went camping with [foster parents].”

“If the Department wasn’t there to provide a roof over my head or [foster parents] to take me under their wings, I think I would have become homeless, been on the road, might not be alive; would probably be dead at this point.”

“Summer camps in Sussex with the horses.”

The worst experiences of children and youth in care, in their own words

“I don’t like when the social worker or foster parents don’t take the time to listen to what I have to say in situations of conflict, to judge me without taking the time to listen. Take the time to listen to us.”

“The worst experience was going to the police station and spending the night there.”

“The worst experience is to think that you can leave (the host family) as quickly as you got there, just for a small thing. It is not easy at first because there are more rules because you live in a group (with other foster children) and you have to get used to the consequences. The consequences also increase if you don’t follow the rules.”

“The social worker always has the last word about stuff, but we don’t get to see them often and can’t talk directly with them, so the decisions are all theirs.”

What children and youth told us they want from the system

“My social worker is the person in charge of my life. It’s important they come see us, hear us.”

“Take more time and go check if you can do something when a request is made.”

“They [social workers] should be able to text us or call my cell phone whenever, like on weekends or when there are important questions. It’s difficult when you have a question about money or something and you have to wait a whole weekend to talk to him. Even in the week they aren’t in the office, they’re driving around.”

“Just tell us what we need to know instead of being afraid of how it might make us feel.”

“Be reliable.”

WHO CHILDREN IN CARE ARE

“Educate yourself on each child’s situation. We should not all be treated the same because we are not all the same.”

Sixteen-year-old youth in care

“Kids are coming into care younger and younger.”

A Social Development children-in-care supervisor

“What saved my life was perseverance and being determined, and wanting something from life.”

A twenty-year-old former youth in care

One thing children in care have in common is that they come from situations of deep trauma. Another thing they have in common is that they are at times maliciously labelled in the view of the general public not only as victims but as delinquents with few abilities and little prospect of achievement. As a seventeen-year-old female in care told us: “The only thing I mind now is how kids at school make jokes about kids in group homes, how we are all stupid and mentally ill.” Yet children and youth in care defy these labels. Putting together a picture of a “typical” child or youth in care is impossible. The ones we met had all kinds of different interests, different challenges, different skills and different hopes.

Some are incredible athletes, some earn scholarships to the best universities in the country, some have cognitive impairments, some teach themselves to play guitar, some play violin, some do gymnastics, some are highly talented with computers, some have a strong desire to end their lives, some can’t wait for their lives to begin, some love art, some love to walk in nature, some are lonely, some are depressed, some have addictions problems, some love to read, some dream of becoming a firefighter, some are president of their graduating high school class, some have not been in school for years, some love to camp and fish, some want to become social workers, group home workers or foster parents. All of them are struggling and striving to carve out an identity for themselves.

The primary question in adolescence is “Who am I?”. This is, of course, a primary question throughout life, but adolescence is the time when the question becomes fully formed and all-important.¹⁸ Having a more completely realized sense of self relates to positive well-being beyond adolescence, into adulthood.¹⁹ Young people’s sense of self-identity becomes more coherent and stable over time.²⁰ Connection to social identity in

terms of gender, ethnicity, sexuality, culture, religion or other factors can have positive influence on psychological well-being in adolescence.²¹ Children and youth have a fundamental human right to freedom of expression.²² This right must be not only respected but encouraged for children and youth in care, as it is usually more difficult for them to express themselves and form a strong sense of self-identity than it is for the average child or youth.

It is important to remember that children and youth in the child welfare system come from a vast variety of backgrounds. They may come from low or high socio-economic status, they may come from rural or urban settings, they may be Indigenous, they may be a visible minority, they may be francophone or anglophone. Their backgrounds and situations are more diverse than this report can cover. For example, children and youth who are refugees must be provided with special protection and assistance.²³ This includes the right to acquire a nationality.²⁴ The case of Abdoul Abdi in Nova Scotia launched a public outcry, when Abdi, who had been taken into government care at the age of six, faced deportation as the government had not applied for citizenship.²⁵ Our office has advocated on behalf of youth in the care of the New Brunswick government with similarly precarious citizenship status – the Department of Social Development had not initiated a citizenship application in the years he had been in care. Nova Scotia has since changed its policy to obligate a social worker to note citizenship status when a child enters care and reassess immigration status every 90 days.

The personal identities of all children and youth in care are forged through their own resilience but are impacted by constraints and stresses that no child or youth should face. The 'Child in Care Program Practice Standards' provide that a 'Lifebook' be maintained for each child in care, as a repository of mementos of significant events in the lives of these children and youth. As the practice standards state, "A Lifebook will highlight the child's identity and history by helping children retain connections to people who have been important in their lives."²⁶ As the standards also note, "It has clinical and therapeutic value when completed with the child." It is the responsibility of the child-in-care social worker to ensure that the Lifebook "is being maintained on a regular basis." This obligation is often upheld, we believe, although we have seen no data on this point. Nevertheless, we have met with youth in care who tell us that their Lifebook has not been updated in the past year, and we have met some who did not even know what a Lifebook is. We suggest that the Department of Social Development track the frequency of Lifebook updates and provide a standard with an actual time frame rather than the subjective notion of "a regular basis."



**PART 3. THE
EXPERIENCE OF
LIVING IN CARE**

The Department of Social Development does not monitor over time some basic information. We made many data requests. It was either too difficult for the Department of Social Development to produce most of this data, or it was not prioritized.

For example, the Department could not produce numbers of children and youth who return to their parents after being in temporary care. It could not produce the average duration of custody orders, or the number of cases in which children are subject to the maximum number of custody orders (the legal maximum is four orders, each being six months' maximum duration²⁷ although this legal rule is often breached in our experience – please see the Advocate's report *We Are What We Live* for recommended legislative changes²⁸).

“I was told when they brought me into protection that it was temporary. That was 7 years ago.”

An eighteen-year-old in care

“Without Social Development and my host family I would be on the street using drugs. I have never drunk, smoked cigarettes or taken drugs.”

A sixteen-year-old in care

‘STATUSES’ OF CHILDREN IN CARE

“Even if the home environment is less than perfect, young people are probably better off staying there than coming to resources that cannot meet their needs and waiting for years for a faint hope of adoption.”

A regional supervisor in the Department of Social Development

An overarching feeling among many youth in the child welfare system is resentment. Youth in government care often resent being lost in a system they have no ability to understand. They resent that it controls and constricts their lives without explanation. This is completely normal. Any of us, faced with a traumatic loss or a negative experience, will seek to control the things in our lives that we can. A child who has lost

their family, or had their trust betrayed by those who should care for them, will seek some measure of control and predictability. Matters which may seem small to a busy social worker or group home staffer – is there a suitcase or a garbage bag to transport my things? Can I meet my friends to play basketball? Will I be able to watch my favourite program before bed? – take on outsized importance to a child trying to find security in a small measure of control.

There are things that the Department must know in order to have a sense of what is good policy for children. How long do children wait for permanent homes? How many times are children forced to move? What is the participation rate of children in care in extracurricular activities? How many are able to have part-time jobs? How many improve their school performance while in care? How many have mental health challenges, and how quickly do they obtain services? How many go on to college or university? No good parent would be incurious about these things. That would be callous, even incompetent. The Department should not be inviting that comparison.

RECOMMENDATION 1

It is a critical recommendation of the Advocate that the Department of Social Development develop a scorecard to measure outcomes and conditions for children in care. Our office will commit to work on this project. We also commit to asking for relevant information annually and to advise the Legislative Assembly of what is, and is not, known about the children for whom government is to act *in loco parentis*.

Children and youth in the child welfare system cannot be expected to understand the logic of actions taken in a massive bureaucracy governed by lengthy legislation, numerous policies, and hundreds of pages of practice standards. One youth's suggestion to improve the system was blunt: "Explain stuff in ways we can understand. I feel like I'm drowning."

The terminology in the child welfare system can be confusing for anyone. It is certainly confusing for children and youth. There are various 'statuses' a child may have in the 'care system'. These statuses are distinguished from each other in law under the *Family Services Act*. There is, in law, a major difference between a 'custody' status, wherein the Minister has custody, care and control of a child but the parents retain some legal rights, and a 'guardianship' status wherein full legal authority and all parental rights are permanently placed in the Minister of Social Development. In our experience, it is very rare to find a child or youth who understands the difference.

These statuses are also very much distinguished in the practices of the Department of Social Development. Even though current child welfare legislation provides that “child in care” means any child or youth under protective care, a supervisory order, a custody agreement/order, or a guardianship agreement/order,²⁹ these children and youth are treated very differently. The services provided to children “in care” vary greatly according to what legal status they are in.

Although we refer to the various legal statuses throughout this report, on the whole we find the terminology to be of little help in the day-to-day perceptions of a child. A child in a group home, foster home or specialized placement is very much thinking about who has control over their lives at that moment, without really understanding the various legal obligations of government. Furthermore, we rarely encounter an employee in a group home who actually knows whether the children and youth in the home are in protective care, temporary care or permanent care – the terms ‘custody’ and ‘guardianship’ mean nothing to them.

Whether a child is the subject of temporary protective care,³⁰ in the legal custody of the government,³¹ or in the legal guardianship of the government,³² there is a social worker involved. The extent of that involvement and the role of that social worker depends on the legal status the child is under. On a day-to-day basis, children and youth are usually less concerned with the role of the social worker and more concerned with foster parents or group home residence workers who are crafting rules and making decisions that control what they can and cannot do. But in terms of their future, children and youth realize that social workers have power over their lives.

The role of the social worker differs between Child Protection Services and Child in Care Services. When a child is under protection, the Child Protection Services social worker does not have the time to accompany the child to their appointments. When a child’s legal status changes to guardianship under the Minister of Social Development, the Child in Care social worker may often accompany the child to their appointments because they have complete parental responsibility for this young person. This is sometimes confusing in foster families or group homes when young people live in the same places but do not have the same legal status under the Minister and therefore receive different levels of services. It is also indefensible considering that a child or youth can be under a custody status for several years.

Under the *Family Services Act*, custody and guardianship are both under ‘Part IV: Children in Care.’ The legal difference between the two statuses is that when the Minister of Social Development has custody, they have “custody, care and control of a child”, and when the Minister has guardianship they have “custody, care and control of, and all parental rights and responsibilities with respect to, the child”.

When the Minister has custody, they must “provide care for the child that will meet his physical, emotional, religious, educational, social, cultural and recreational needs”³³ and “provide support for the child”³⁴. The Minister is responsible to provide this care and support “to the extent the parent cannot.”³⁵ In practice, it has been the experience of the Child and Youth Advocate that almost invariably “the parent cannot” provide these necessities. Nevertheless, under the law currently, when the child has a custody status as opposed to a guardianship status, the parent’s wishes must be considered when the Minister makes a plan for the child.

When the Minister has guardianship, they must “provide care for the child that will meet his physical, emotional, religious, educational, social, cultural and recreational needs”³⁶ and “provide for the support of the child,”³⁷ as she does when she has custody. But under guardianship, the Minister has an added responsibility, as the Minister “has full parental rights and shall exercise full parental responsibilities with respect to the child.”³⁸ When the ‘guardianship’ of a child is transferred to the Minister of Social Development, the Minister also assumes custody, care and control of the child, and all parental rights and responsibilities.³⁹ In accordance with law, the Minister of Social Development must also consider any wishes that the child expresses with regard to any placement or planning.⁴⁰

While both of these statuses (custody and guardianship) are found in the ‘Child in Care’ section of the *Family Services Act*, the Child in Care Program Practice Standards apply only to children under the Minister’s guardianship, not children under the Minister’s custody. These Child in Care Program Practice Standards were updated in 2018, are 119 pages long, and provide far more guidance for social workers providing “care for the child that will meet his physical, emotional, religious, educational, social, cultural and recreational needs” than the succinct and general provisions of the *Family Services Act*. The Child Protection Services Practice Standards, on the other hand, have not been updated in a decade, do not provide guidance as to rights of the child, and are not as comprehensive in terms of comprehensively meeting the child’s physical, emotional, religious, educational, social, cultural and recreational needs. This places children under the Minister’s “temporary” custody at a disadvantage, even though these children often spend years in this situation.

The *Family Services Act* states that a court may extend a custody order for additional periods of up to six months each, up to a maximum of twenty-four *consecutive* months.⁴¹ The term ‘consecutive’ was often used to re-set the clock between each custody order. This meant that a child may spend months under the Minister’s custody, living in foster care or a group home, and then be returned to the parent rather than have the Minister apply to court for guardianship. If the child was brought back into care under another custody order, due to further abuse or neglect, this was counted as a first custody order. The clock started over, as does the limbo the child is living in. We have

encountered children coming in and out of care for many years – far longer than the 24 months maximum would suggest. This problem has been rectified to a degree, in that an amendment to the legislation in April 2021 provides that the 24 months is to be counted *cumulatively* instead of consecutively. However, this change applies only for children under the age of twelve.⁴² There was an opportunity for the legislation to be changed to allow those twelve years old and older to not be stuck in the status of ‘custody’ for many years, but the opportunity was not taken. It is not possible to view this gap as being in the best interests of these children.

A further problem is that there is a tragically common breach of time limits under the *Family Services Act*. Situations occur wherein the Minister of Social Development applies for a *first* custody order after having had a child in their care for more than a year already. Court delays lead to this problem. Part of the problem is parents who do not show up to court and yet a new court date is set, without prejudice to the parent’s claim. We heard from multiple social workers, as well as lawyers, sentiments such as “The parents have more rights than the children.” Parents unquestionably have rights in these proceedings. It is important to recognize that children do also. As the Supreme Court of Canada has stated: “The interests at stake in the custody hearing are unquestionably of the highest order. Few state actions can have a more profound effect on the lives of both parent and child. Not only is the parent’s right to security of the person at stake, the child’s is as well.”⁴³ These rights are not always aligned with each other, and when they clash the child’s should be paramount.

The limbo of remaining in the Minister’s custody rather than under guardianship will continue if court delays continue. We spoke with family law defence counsel who want the maximum 24-month period of custody prior to a guardianship application to be shortened, and yet who believe the court system is not even prepared for the potential increase in hearings due to the new stipulation of a cumulative counting of the 24-month time limit.

Perhaps the most saddening aspect of legal status terminology is how we use it as professionals when we refer to children – and those children, those individual children with individual fears and hopes, become abstractions, defined not by who they are but by how the law classifies them.

MORE THAN A FILE

Adam was brought into the care of the government under a six-month 'temporary' custody order. He had to change schools, because there was no available bed for him in his community. When Social Development attempted to enroll him in a new school, the school refused him entry because his immunization records were not up to date. Social Development contacted Public Health for the records, and Public Health refused to supply them without consent from Adam's mother, even though Adam was under the care of government.

None of the three government systems in this situation, Social Development, Education and Health, could be said to be acting in the best interests of the child. Moving a child from his school and his peer supports when he is being removed from his parents is an unnecessary trauma that is based only on budget for residence. Moreover, no school would refuse entry based on immunization records not being up to date if they understood their human rights obligations. And furthermore, no official at the Department of Health would refuse to supply the immunization documents if they understood the law.

We would note our call, described in more detail in the companion report to this one, *Easier to Build*, for a recommitment to Integrated Service Delivery. Specifically, we have called for cabinet-level responsibility for a Ministry of Children, with the expectation that vulnerable children (including children in care) will automatically have an individualized case plan integrated between all the departments who provide them services. A reasonably diligent parent is expected to maintain contact with educators and health providers. Government, when acting as a parent, should do the same. There is no reason for a child to be moved with no plan to minimize disruption in their school life. There is no reason for a child in the government's care to have another branch of the same government withholding health or education records. There is no reason why case planning among all front-line providers should not happen for the children most in transition and most at-risk. A lack of political or bureaucratic will is not acceptable.

RECOMMENDATION 2

It is recommended that Cabinet-level responsibility for Integrated Service Delivery be assigned to a minister empowered by statute to ensure that all children in care have an integrated services plan developed by all relevant Departments.

Professionals in Child Protection Services make decisions daily that are calculated but inherently unpredictable balances of risk. That unpredictability will always be present in that work. Leaving a child in a situation that may be harmful versus the known harm of taking them from family into an unknown situation is a hugely difficult decision. The unpredictability of risk-balancing decisions will remain to some degree when a child is brought into temporary care of the government. When and if to return a child to their parents is never a clearly obvious decision. But when the decision is made to take guardianship of a child, it is a completely different thing: there is no longer the weighing of risk as to whether to return the child to their parents. When guardianship is taken, future harm is preventable, and rehabilitation and full support for development must be the complete focus. The goal after guardianship is ostensibly adoption but the far more likely reality for these children is life in government care in the status of guardianship of the Minister of Social Development until they 'age out' of the system when they turn nineteen. However long a child or youth remains in the child welfare system, their 'status' should not determine their level of care.

HOW CHILDREN EXPERIENCE LIVING IN CARE

“[A] child’s best interests should be included in the assessment, planning and decision-making process surrounding the permanent plans for the child and any procedural delay should be avoided as much as possible”

New Brunswick Family Services Act, Preamble

“Do we really think that a parent deserves two years to become fit to be able to have their children in their care? What kind of parent needs two years to learn how not to abuse or severely neglect their child?”

A concerned family member of a child in the custodial care of the government

It is very difficult for the general public to understand what a life in government care might look like. The New Brunswick Youth in Care Network plays an essential role in bringing forward concerns from within the system, but the majority of New Brunswickers remain in the dark. Social workers, group home staff, foster parents, extended family, health workers, teachers, police and some community members see the system as it is experienced by individual children and youth they provide services to or interact with. But the government does not seek to create an overall picture of what the lives of children and youth in care are truly like. These lives are characterized largely by waiting for some kind of stability, being moved from place to place and worker to worker, all the while not being able to do simple things that children and youth normally do.

Languishing in the limbo of waiting for a stable status

“Kids are staying in care without guardianship for years.”

A social worker

“Judges will delay decision-making to accommodate the parents, when the parents don’t bother showing up for court.”

A social worker

“Parents’ rights supersede children’s rights.”

A government lawyer in Family Crown Services

As noted already in this report, a child can be in government ‘temporary’ care for years without being under the full legal guardianship of the Minister of Social Development. This means that children and youth living in the same foster home or group home, for years, receive different services from the Department. This is often confusing for foster families and group home staff. When a child or youth is under ‘guardianship’ status of the Minister, the social worker has complete parental responsibility for them, whereas a child or youth under ‘temporary’ custody status for years is not under the Minister’s full legal responsibility. Group home staff rarely understand the difference, and nor sometimes do foster parents, who don’t understand why the Department of Social Development offers different levels of services to children who are obviously in the same situation practically, if not legally. Much of this differential treatment appears to arise due to difficulties in obtaining permissions from the parents of children in ‘temporary’ care.

We believe this distinction to be harmful to children and not fully in accordance with the law. The distinction is not grounded in a broad, purposeful interpretation of the law. As noted above, when the Minister has custody, they must provide care for the child that will meet the physical, emotional, religious, educational, social, cultural and recreational needs of the child⁴⁴ and provide support for the child to the extent the parent cannot.⁴⁵ When a child is in the ‘temporary’ custody of the Minister for a prolonged period of time, it is legitimate, practical and both legally and morally right for the Minister to take a parental role, as would be the case under legal guardianship. The Minister’s representatives of course must work collaboratively as much as possible with parents, but when the parent in creating obstacles to services and activities for a child in government care, government must fulfill the parental role.

The delays in getting to guardianship are often unconscionable by any reasonable standard. The system of child protection services, child in care services, and the legal processes are all rife with legal uncertainty and delay. Newborns are taken into protective custody and many years can go by (not legally, but in practice) before there is a court date to determine guardianship.

Child protection law and procedure has as a central premise the paramountcy of the child's welfare and best interests, yet welfare and best interests turn out in practice to be subjective notions – subject to the perspectives, biases and whims of the adults in charge. Welfare and best interests of the child are also subject to the constraints of an under-resourced system.

When making decisions about the child or youth’s trajectory, social workers undertake concurrent planning, meaning that they identify various possible goals, which can be very different such as reunification with the family or government taking full legal responsibility and care. Social workers then simultaneously plan for the various possible outcomes. If one goal fails, progress has already been made toward an alternative goal. When it is implemented correctly, with a structured approach, concurrent planning can shorten the time for a child to feel the stability of a permanent care situation.

Regional offices of the Department of Social Development differ in how they approach concurrent planning. We were told by staff in some regions that they do have concurrent plans they believe are “solid” for each situation and they have the necessary discussions with professionals and families about the alternatives. We were told by staff in some other regions that they have informal concurrent plans, but “nothing on paper”; they may have a beginning of a ‘plan B’ in their minds but not develop the plan formally or communicate it with all parties involved. Some social workers told us they don’t have time for concurrent planning for each child. The regional disparities in how concurrent planning is undertaken is an issue that should be addressed.

Unfortunately, the real problem is the length of time all the plans take. A typical trajectory for a child brought into the child protection and care system is multiple moves from placement to placement, with growing fear, insecurity and trauma.

Social workers told us that they have noticed that rarely does a youth return home if a care placement extends past 6 months. (This is yet another data point which it would be helpful for the Department to measure). In our experience, it is most common for a child or youth to remain in care under legal custody for two years (the maximum of four 6-month custody orders) before legal guardianship or a return to home occurs.

Quite obviously, the primary aim of Child Protection Services is to protect the child from harm. Furthermore, the best interests of the child must be the guiding principle of all actions. As stated in our province's governing child welfare legislation: "the best interests and safety of the child must always prevail when there is a conflict between risk to the child and the preservation of the family unit."⁴⁶ However, there is anguished debate among professionals as to how long it is reasonable to leave children in the uncertainty of government care while the Department of Social Development works toward reuniting the child with their family. It is well-established professional practice that the aim of family reunification is paramount after a child has been taken into care. This principle is evident around the world. As stated by the European Court of Human Rights: "taking a child into care should normally be regarded as a temporary measure to be discontinued as soon as circumstances permit and that any measures of implementation of temporary care should be consistent with the ultimate aim of reuniting the natural parent and the child."⁴⁷ And as the Child Welfare Information Gateway of the US Children's Bureau states: "When children must be removed from their families to ensure their safety, the first goal is to reunite them with their families as soon as possible."⁴⁸ However, very often it will not be possible, even with the best efforts at supporting parents to become responsible and capable, to return a child to parents; in those cases the child should not have to wait years before real efforts are made toward achieving a permanent home.

Housing instability and lack of continuity of care

"The social workers arrived one morning, woke me up and told me that they were going to bring me to the group home."

A teenager remembering having come into care years earlier

"Frequent changes in care setting are detrimental to the child's development and ability to form attachments, and should be avoided."

United Nations Guidelines for the Alternative Care of Children

“They (children and youth) need to build a relationship of trust with someone and know where they are going. There is far too much change in placements and social workers. They at least need someone, one person, who follows them and is there for them in the entire process.”

Mental Health professional working with youth in care

“We overload our foster families and when they can’t handle the kids, we have to move them to a group home or try another foster placement – it hurts these kids and it burdens the foster homes caring for them.”

A social worker

“I’ve had ten moves. I just pick my shit up and leave.”

Eighteen-year-old male

“Stuff gets left behind or lost every time we move from place to place. It should be replaced. My social worker’s supervisor agreed to get me a laptop after Christmas to compensate me for everything I have lost. I’m pretty happy about that.”

Eighteen-year-old still in government care, in a group home

“I would’ve liked to play in the girls hockey team at school but I couldn’t because I have to move after Christmas and change schools.”

A teenage girl in care

“It’s all abandoning plans and saying goodbye to friends.”

A young person about to “age out” of care

Children and youth in government care here in New Brunswick far too often live transient lives. They are moved around *in* care, and they are moved *in and out of* care. A nineteen-year-old could not remember the number of times he moved but counted ten for us off the top of his head. We met a nine-year-old on the day he was going to his grandparents’ home because they had been awarded guardianship. He told us he had switched schools six times by grade four. He knew he would have to switch again, and he hoped to get his friends’ phone numbers at school the next day. He did not know his own phone number or that his friends likely would not know their parents’ numbers.

The Department does not track and measure the average number of placements for a child in temporary or permanent care. The number of moves to and from group homes,

foster care placements or kinship placements for children are only tracked by the children themselves, mostly in unhappy memories.

Some regions of the province have what social workers call a “resource crisis”. Even with what group home professionals have called “constant exemptions from practice standard staffing ratios” to allow for more children in a group home, children and youth have to be moved out of their regions, away from family and friends, because of the lack of residential resources. It is common for government to have to separate siblings in order to secure placements for each of them. As a youth in care said to us: “Child protection is hard enough without having to be separated from your brothers and sisters. Not having beds available shouldn’t be an excuse to separate us.”

Where a child is in the care of the Minister under custody or guardianship the Minister must provide care for the child that will meet the child’s physical, emotional, religious, educational, social, cultural and recreational needs.⁴⁹ In complying with this obligation, the Minister must ensure that any relocations meet these needs. This is unquestionably not always occurring. The lack of facilities, frankly, too often make this obligation impossible for social workers to meet. Prior to relocating children, social workers must also consider any wishes of the child with respect to any proposed placement or planning.⁵⁰ Again, the lack of available facilities too often makes this obligation a hollow one in practice.

Again and again youth told us about how they were given little or no information before being moved. It was almost always a shock to them each time they moved. There is a lack of adequate notice of moves because the system operates in a reactive mode. It is crisis-driven because of resource issues. When children have to go through multiple home placements and caregiver transitions, it has a detrimental impact on their development. Research evidence shows that interventions and programs from early childhood to adolescence can reduce the number of placement transitions a child experiences.⁵¹ Interventions and programs are inadequate in New Brunswick. We are of the opinion that placement instability and frequent moves are due to inadequate long-term planning by the Department of Social Development and a lack of overall government investment. The unpredictable dynamics of a group home (including the interactions with other children or youth there), unsuitable matches in foster homes, and the lack of highly trained and supported therapeutic homes can all lead to placement instability. The lack of placement options feeds into this problem. We hear, for example, from group home managers who are asked by Social Development to take an extra child or youth, in violation of practice standards; sometimes the group home managers acquiesce and sometimes they refuse – but they should not be put in a position to make such a decision that inevitably will be harmful to a child refused a bed, or others who must live in an overcrowded group home.

It is well-documented that the effects of changing residences repeatedly and never knowing for how long, is emotionally damaging to children.⁵² This disruption of the stability in their lives can also lead to behavioural problems.⁵³ Poor academic performance is another potential consequence of these abrupt and frequent moves.⁵⁴ And increased likelihood of substance use, psychiatric hospitalization and suicide attempts are further consequences.⁵⁵

The resources do not align with the needs of the children and youth in care, who are shuttled around due to lack of placement options. Placement instability is associated with an increased risk of continued child welfare system involvement as well as other negative outcomes including criminal justice system involvement.⁵⁶ Like so many things in social services, a small investment of time and money in transition planning could reduce future expenditures significantly.

Young people told us that they want to be able to visit a new place a few times before being moved there. One youth we spoke to said a social worker informed him he was coming into care and he was only told on the day he was moving out. He said: “as soon as I got to [a group home], I ran. Every week, I ran, I just wanted to run.” One evidence-based strategy for supporting placement stability is the formal integration of the child welfare system and behavioral health (including mental health) system, as the latter can be better attuned to the developmental changes unique to this population.⁵⁷ Much of the problem with the current child welfare system in New Brunswick relates to a lack of such collaboration and coordination of efforts.

After having lost connections to family through being taken into care, being moved often means losing one’s friends, teammates, and associations. This compounds the child’s loss. Children learn that abandoning positive relationships with people and being moved to the next unknown place is the norm for their lives. They don’t overcome the pain – at best, if they are fortunate enough, they learn to cope. We asked a seventeen-year-old “What picture would best describe what life is like for you?” He answered: “A picture of shit.”

These moves make children and youth feel less human. A long overdue practice standard update in 2018 ended the permission for social workers to move children or youth from one placement to another by having them put their belongings in garbage bags. These garbage bag moves were a terrible symbol of the lack of care in the care system. It told kids that their lives were garbage. The practice changed in the Child in Care Practice Standards because social workers knew it should end and advocated for that. It is a welcome change, but it is shocking that it ever occurred. Even more indicative of the abruptness of these moves is that we still find occasions when no luggage is apparently available and garbage bags are used to transport belongings. These garbage bag moves have been perhaps the saddest symbol of how the system

operates without being able to take a trauma-informed approach or act with consideration of the child's views. A child-rights-focused system would never have allowed it to happen.

Adding to the injury, almost all of the youth we spoke to recounted lists of things they lost in moves, things that had sentimental value to them. Many stated something similar to what this sixteen-year-old did: "Every time I got pretty much no notice about moving, and then I had to pack up and go. I lost stuff every time."

Placement changes also disrupt their education. It can take a considerable amount of time for a child or youth to be placed in a new school after a move to a different group home or foster placement.

It is unrealistic to expect model behaviour from children who face constant unpredictability in their lives and are subject to sudden, jarring upheavals, being moved again and again. Trauma often resurfaces at times of transition. A new location means new rules and new people to figure out. It is frightening. It is also bewildering.

It is not impossible to fix this problem. California passed legislation in 2018 that requires that a social worker or placing agency provide a minimum of 14 days written notice to youth prior to any placement changes (with sensible exceptions, such as cases of imminent danger).⁵⁸ There is no reason that a commitment to children in government care here in New Brunswick could not achieve that minimal standard. A better standard would be that the child or youth has a right not to be moved unless in their best interests or for reasons of personal safety or safety of others. Even when movement is inevitable, there should be basic standards. An Integrated Services plan should automatically ensure co-ordination with the education system, so that transportation and other arrangements to allow for school stability and extracurricular activities is maintained. There should be a child's-eye assessment so that there are minimal disruptions to the young person's life, such as sudden loss of contact with friends or wild shifts in rules and expectations. This should not be daunting. It is exactly what a responsible parent would do faced with an imminent move.

Limitations on leading a normal life

"Where the child is in care under a guardianship agreement the Minister shall provide care for the child that will meet his social, cultural and recreational needs."

The New Brunswick Family Services Act

“Too many group homes are about command and control instead of an individual relationship with each youth.”

A mental health professional working in a youth residential setting

“I don’t know what colour the tape is. Red? Whatever... there is a lot of it.”

A youth in care

Something as simple as a sleepover with a friend becomes a near impossibility for young people in government care. The lives of these children and youth are governed by professional practice standards, legal regulations, legislation, fear of litigation, and bureaucracy to an extraordinary degree. Living a normal childhood with consistency of school, friends, community supports, etc., becomes a dream many of them have abandoned. Keeping relationships is hard when you are being moved again and again. Eventually, many of these youth tell us, they give up trying.

Some of the suggestions from youth in care are simple. They told us that they want to have more access to funding for activities like going out to see a movie or going bowling. It isn’t all dire. Some youth do get to have outings and sleepovers and other normal activities. As one young girl told us: “My best experience in care was when I was in a group home and I got to go to Moncton with my best friend. We slept in a hotel, went shopping, and went to Magic Mountain. We had a pillow fight in the hotel room.” Unfortunately, we didn’t hear many of these kinds of stories. Too often children and youth in group homes are prevented even from being outside. The system can be so obsessed with avoiding situations that might invite criticism that it wrings the joy, freedom, and spontaneity out of children’s lives. This problem has been exacerbated during the COVID-19 pandemic.

INDIGENOUS CHILDREN LIVING IN CARE

While child welfare for Indigenous children is ‘federal responsibility’ the province still has moral – and, we would argue, legal – obligations to support Indigenous children living in New Brunswick, both within and outside First Nations communities, notwithstanding that Indigenous Child and Family Services agencies operate independently of the New Brunswick government.

The Department of Social Development provides child protection and child-in-care services to Indigenous children who are not living in a First Nations community. When the Department becomes involved with a child and it is known that the child’s heritage is connected to a First Nations community, they will contact the Child and Family Services Agency in that community. The First Nation then has the choice to provide services to that child or leave the Department of Social Development to do so. Similarly, anytime a First Nations child may possibly be brought into court-ordered government Guardianship, and therefore potentially being adopted in the future, the Department of Social Development must notify any First Nation concerned.

Ever since the Child and Youth Advocate’s collaboration with First Nations communities resulting in the *Hand in Hand* report, it has been a struggle to be afforded the resources to undertake a follow-up review of Indigenous child welfare services – and we would not undertake one without the full prior consent of First Nations governments. We have, however, spoken to Indigenous children living outside First Nations communities during the course of this review, many of whom have been receiving services from the New Brunswick government rather than First Nations Child and Family Services agencies.

The country has apologized for residential schools.⁵⁹ The federal Human Rights Tribunal has held the government to account for discriminatory funding of First Nations child welfare.⁶⁰ The Truth and Reconciliation Commission has shown the way forward.⁶¹

It is one of our nation’s true failings that Indigenous children are grossly over-represented in the child welfare system, taken from their homes and often severed from their cultures. The child welfare system breeds harmful consequences. This is no reflection on the people working in the system, it is a reflection of the inherent problems with the system itself. Across the country, there are now more Indigenous children in child protection than were in residential schools.⁶²

In 2018 the Child and Youth Advocate made this recommendation:

Government should act immediately in consultation with First Nations governments and other Indigenous stakeholders to preserve and promote

Indigenous languages native to our Province. An immediate plan should be in place within six months. A long-term plan should be in place within one year. Mi'kmaq and Maliseet should be the language of instruction in schools for First Nations students. It should also be available as optional-language instruction for non-Indigenous students. Mi'kmaq and Maliseet language status should be protected in New Brunswick legislation.⁶³

It is two years later, and little progress has been seen. In July of 2020 *An Act to Amend the Education Act* was moving through the New Brunswick Legislature which would change this section of the *Education Act*:

7 The Minister shall prescribe or approve programs and services

(a) respond to the unique needs of Mi'kmaq and Maliseet children, if the Minister has entered into an agreement with a council of the Mi'kmaq or Maliseet first nation under subsection 50(1) or paragraph 50(2)(b), and

(b) foster an understanding of aboriginal history and culture among all pupils.

To this:

7 The Minister shall prescribe or approve programs and services

(a) respond to the unique needs of Mi'kmaq, Wolastoqiyik and Peskotomuhkati children, and

(b) foster an understanding of aboriginal history, language and culture among all pupils.

It is commendable. It is also insufficient. The UNESCO Atlas of the World's Languages in Danger still lists the Mi'kmaq language as vulnerable and the Wolastoqiyik language as severely endangered.⁶⁴ The proposed amendments to the *Education Act* would seemingly do little to change that. Moreover, the challenges are greater than language preservation, as important as this is. Indigenous culture faces continued threat to its existence as a result of the legacy of Canada's assimilationist policies, systemic federal underfunding of education services, historical bigotry, the intergenerational trauma of the residential schools system and the sixties scoop (wherein tens of thousands of children are estimated to have been removed from their homes and moved to non-Indigenous families), as well as the longstanding underfunding of Indigenous child welfare services. Nevertheless, there is resilience. There is a significantly higher percentage of Indigenous youth than non-Indigenous youth in this province who view learning about their culture to be important: 74% of Indigenous youth in New Brunswick feel this way, while only 58% of the general youth population does.⁶⁵ The province has a role to play in preserving, promoting and providing increased access to Indigenous

cultures, and it has an absolute responsibility to ensure the preservation of Indigenous culture for all Indigenous children in its child welfare system. In accordance with the UN *Convention on the Rights of the Child*, Indigenous children have the right – and shall not be denied the right – to enjoy their cultural practices, must be afforded the ability to use their own language and to “profess and practise” their own religion.⁶⁶

We note that the Government of New Brunswick operates under a unique tuition arrangement according to a trilateral agreement with the Government of Canada and First Nations governments, in which half of the funds paid to public schools for the education of First Nations students are jointly managed by First Nations governments and the local education authority. This ensures cultural relevancy and collaboration. After its implementation, there was a significant improvement in educational achievement of First Nations students. We would recommend that the Department of Social Development look at this model, both as a potential source of collaboration in an Integrated Services framework and as a possible model for their own regional offices to better involve First Nations governments in planning around First Nations youth in care.

In New Brunswick, 3% of the child population is Indigenous, but at times over 20% of the children in government care in New Brunswick are Indigenous; 1.7% of Indigenous children aged fourteen and under are in foster care in New Brunswick, while only 0.2% of non-Indigenous children are.⁶⁷ Still, comprehensive statistics are not readily at hand. The Department of Social Development does not adequately measure the sufficiency of services to Indigenous children. There is even some confusion within the Department as to whether statistics can be accessed from the federal government.

The right to Indigenous self-determination

The two international human rights treaties that combined with the Universal Declaration of Human Rights to form the International Bill of Human Rights⁶⁸ both proclaim the right of self-determination for all distinct peoples. This right is enshrined in the very first article of both the *International Covenant on Civil and Political Rights*⁶⁹ and the *International Covenant on Economic, Social and Cultural Rights*.⁷⁰ Canada, and indeed New Brunswick, has obligations that have not been upheld under these human rights instruments.

Self-determination of distinct peoples has been found to support healthy environments, whereas a lack of control over self-determination has been found to lead to unhealthy environments.⁷¹ The call for self-determination for Indigenous peoples in Canada has been made by Indigenous leaders,⁷² former Prime Minister Paul Martin,⁷³ national reports such as the 4000+ page Royal Commission on Aboriginal Peoples,⁷⁴ and the multi-volume report from the Truth and Reconciliation Commission⁷⁵ – furthermore, it is the

foundational right in the UN Declaration on the Rights of Indigenous Peoples.⁷⁶ Reconciliation of our country's past injustices and present inequalities requires all of us to understand the situations of Indigenous peoples and particularly Indigenous children, and work toward truly meaningful solutions.

The Supreme Court of Canada has repeatedly insisted that Aboriginal rights require reconciliation.⁷⁷ Canada officially adopted the UN Declaration on the Rights of Indigenous Peoples.⁷⁸ New federal legislation, the *Act respecting First Nations, Inuit and Métis children, youth and families*,⁷⁹ came into force on January 1, 2020 and affirms the rights of First Nations, Inuit and Métis peoples to control child welfare for Indigenous children. This Act provides that Indigenous governments can craft their own legislation in order to exercise jurisdiction over their own child welfare services. It promises to create a major change in the powers of Indigenous groups including First Nations in New Brunswick in terms of self-determination. It must be remembered, though, that even with the full self-governance of child welfare for First Nations, the New Brunswick government will continue to provide child welfare services to those Indigenous children who are not living in a First Nation. The province must provide culturally responsive care for Indigenous children who come into their care, and placements of Indigenous children into temporary and permanent care must be culturally appropriate.⁸⁰ Where the child is in provincial government care, the Minister of Social Development must, according to the law, provide care for the child that will meet the child's cultural needs.⁸¹ Culturally responsive care means that professionals must be afforded the training to ensure that the child's heritage is respected, as well as the various communities a child may identify with, including religion and language. The Department of Social Development should engage with First Nations to craft stand-alone culturally appropriate practice standards for Indigenous children served by the Department. The Department of Social Development should also fund an Indigenous coordinator as part of the New Brunswick Youth in Care Network to build connections with Child and Family Services agencies in First Nations and to provide cultural supports to Indigenous youth in the Network.



PART 4. THE MEANING OF HOME

“I’m looking for a family life, I’m happy that they found one for me.”

A young girl happy to be in a foster family

“Every child and young person should live in a supportive, protective and caring environment that promotes his/her full potential. Children with inadequate or no parental care are at special risk of being denied such a nurturing environment.”⁸²

United Nations Guidelines for the Alternative Care of Children

“All alternative care provision should be based on a written statement of the provider’s aims and objectives in providing the service and the nature of the provider’s responsibilities to the child that reflects the standards set by the Convention on the Rights of the Child...”⁸³

United Nations Guidelines for the Alternative Care of Children

“We don’t have the means to give them placements that work for them.”

A child in care social worker

“We have an 8-year-old who is naïve and innocent in a group home with teenagers, some of who use drugs and alcohol and are prone to violence.”

A social worker

In 2018-2019, eight hundred and fifty-six children and youth in New Brunswick were in foster care, while two hundred and forty-nine children and youth were in group homes and special placements.⁸⁴ Professionals in the Children’s Residential Services branch of the Department of Social Development attempt to match each child coming into care with a foster home, group home, kinship care placement or specialized placement meeting that child’s profile. We believe that statement holds true, but the word “attempt” is a qualifier. We acknowledge that a group home organization manager told us that when they read that statement in an early draft of this report, they “actually laughed out loud” because in their opinion matching placements with each child’s profile “has not been a factor in determining placement decision for many years.” They explained that “Social Development now places youth in any placement they can find because of the lack of appropriate resources.” In our experience, social workers do attempt to find appropriate placements for each child, as this is what the practice standards require, but the practical reality we see is more reflective of that group home manager’s opinion. There is an ongoing crisis in availability of placement resources.

Children and youth provided us with many suggestions of how placements could work best, such as the idea of having younger youth go to a group home having attentive staff and more activities and then at a later age moving to another that allowed for more autonomy. The system needs to do better at listening to youth who are in it.

A system this large that impacts the lives of vulnerable children and youth also needs rights-respecting Quality Standards that are enshrined in either legislation or regulations. As this report goes to print, Ontario's government is consulting broadly on proposed regulatory amendments under that province's *Child, Youth and Family Services Act* that will embed aspects of the government's child and youth residential services Quality Standards Framework.⁸⁵ This initiative is one that New Brunswick would do well to take as a starting point for a rights-respecting Quality Standards Framework for children and youth in government care in our province.

Being in government care makes a child vulnerable to abuses of power and authority.⁸⁶ A child deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, is entitled to special protection and assistance provided by government.⁸⁷ One essential aspect that is missing from the protection system is a rights-based focus. Rights are essential to well-being. To protect children and youth in government care in New Brunswick, a Child in Care Bill of Rights should be enshrined in legislation. The overarching theme of such a Bill of Rights must be respect for the dignity and worth of each child. It should be placed in child welfare legislation or enacted as stand-alone legislation. The Child in Care Bill of Rights must be provided and explained to each child, and posted in each foster home, group home or specialized placement.

Bills of Rights have been enacted as law in 15 states in the US as stand-alone legislation for the rights of children living in government care.⁸⁸ These Bills of Rights are made clear to all youth in government care and most include provisions such as rights to: frequent contact with parents, siblings, or family members; frequent contacts with social workers; access to a lawyer; participation in age-appropriate school activities; procedures for complaints and *enforcement of the rights*; protection against abuse or corporal punishment; access to all appropriate healthcare; protections against excessive medication; right to receive copies of all of their records when they leave care; protection against discrimination; and preparation for independent living.

Connecticut's law entitled *Rights of Children and Youths under the supervision of the Commissioner of Children and Families* (the first provision of which states "No child or youth placed or treated under the direction of the Commissioner of Children and Families in any public or private facility shall be deprived of any personal, property or civil rights, except in accordance with due process of law") also provides for youth in care to bring an action in the superior court of the state for any violations of the law.⁸⁹

While the New Brunswick government should be commended for the commitment to enact stand-alone child welfare legislation, a truly child-focused approach would be to also provide for the rights of children in the system in clear, enforceable statutory language. This can be done within a stand-alone child welfare statute, or, preferably, in a *Children's Act* which governs children's rights as well as integration of child welfare with a variety of other existing services. Our companion report to this one, *Easier to Build*, recommends the latter approach. Such legislation should be crafted after extensive review of all existing statutory Bills of Rights across North America for children in care. It should also be informed by the views of children and youth actually in care in New Brunswick; as noted by the American Bar Association, youth should be consulted for input on what rights need to be included because "their perspective is crucial to ensure rights for youth in care are identified and protected."⁹⁰ We would further urge that these rights, along with other aspects of the system, should be published in a child-friendly guide that older children can read and understand.

In our opinion A Bill of Rights for Children and Youth in Care must include at least our suggested guarantees found at the end of the report you are currently reading, listed in Appendix I.

RECOMMENDATION 3

The Department of Social Development should include a Child and Youth in Care Bill of Rights in child welfare legislation.

A Permanent Home

"I was told by my aunt that I was going to a sleep-over when I was six. I never went back to live with her. I've been with foster parents and group homes for 11 years."

A youth in care

A primary goal of the child welfare system is to keep children safely in the home they know, if possible, and reunify them promptly with parents or extended family. When it is not in the best interests of the child to do so, the goal is to find supportive, loving adults to care for them. In any case, protection and safety are paramount, and the aim is to ensure a stable, predictable and permanent home with ongoing caregiving.⁹¹ This is

what is meant by ‘permanency’ in the child welfare context. Children and youth in the child welfare system require and absolutely deserve: unconditional emotional connections (relational permanency)⁹²; stable and safe living environments (physical permanency)⁹³; and a secure status, whether that be adoption, reunification with family, or legal guardianship by government.⁹⁴

When youth “age out” of government care, they often do not have the developmental maturity needed for adult life. Psychological, educational, and behavioral challenges resulting from early childhood experiences of abuse, neglect, and abandonment can be insurmountable; core attributes of permanency such as a sense of belonging and a feeling of strong relationships are essential for healthy development and transitioning to adulthood.⁹⁵ So too are stability of placement and a network of positive social relationships.⁹⁶ Permanency is not synonymous with ‘placement’ – putting a child somewhere away from abuse and neglect is simply the start, and the important challenge is ensuring lifelong supportive relationships.

Training for carers

“Training in dealing appropriately with challenging behaviour, including conflict resolution techniques and means to prevent acts of harm or self-harm, should be provided to all care staff employed by agencies and facilities.”⁹⁷

United Nations Guidelines for the Alternative Care of Children

“Agencies and facilities should ensure that, wherever appropriate, carers are prepared to respond to children with special needs.”⁹⁸

United Nations Guidelines for the Alternative Care of Children

A social worker manager told us, “What I hope is that group homes can develop their own expertise to reduce the demand on the teams that currently surround them.” But we heard concerns similar to the following from staff in several group homes: “The Ministry only provides training money strictly related to work standards, like CPR, Nonviolent Intervention in Crisis Intervention and ASSIST. Those things are important. But this training is not sufficient for all that group home educators encounter in our daily work with these young people. We have young people with increasingly complex problems - like fetal alcohol syndrome, autism, and other combinations – and we have not been trained on how to adequately respond to these young people.”

We are very concerned at the lack of capacity of foster parents and group home staff to respond to trauma-related behaviour. There is a broad lack of training in this regard. The emotional trauma of victims of abuse and chronic neglect often manifests in the

child as hostile behaviour.⁹⁹ Untrained caregivers or workers can react to this behaviour with a zero-tolerance approach instead of understanding and addressing the causes of the behaviour. This leads to resorting to police in situations when a wise and conscientious parent, or an employee who has been offered the necessary professional development, would find a more responsible and empathetic and caring way to handle the behaviour.

GROUP HOMES

“They are engaged and phenomenal and I love them.”

A child-in-care worker speaking about a particular group home

“I would stay here until 25 if I could.”

An eighteen-year-old male in a group home

“This place is not a family.”

A fourteen-year-old in a group home

“It is possible for group homes not to feel like institutions. But it is very, very difficult.”

A New Brunswick child welfare expert

The Department of Social Development’s website states: “Child care residential centres offer group care services to youth under the care of the Minister who are unable to remain in a foster home or biological home due to their physical or behavioural challenges.”¹⁰⁰ This statement currently on the Department’s website may at one time have been accurate, but today children are placed in group homes rather than foster homes *because there are not enough foster homes or other individualized placement options.*

Increasingly we see very young children in these settings, often children under the age of ten. One group home worker told us, “We can accommodate young people aged 6-18, but 12 should be the minimum age.” There is presently a group home in New

Brunswick that takes *only* very young children, between the ages of two and seven inclusive. Such a group home is an experiment that requires justification based on evidence that it can operate in the best interests of children, with performance measures in place to assess its effectiveness. No such evidence-based justification or performance measures currently exist for this group home.

The Department of Social Development has no effective mechanism to track the ages of children in group homes across the province. It can be very scary for young children in any group home, but especially in the group homes that house young children and older teenagers together. A 12-year-old child in a group home said “I’m lucky because I knew another kid here before I moved in. It feels like we’re having a sleepover for a long time.” But during our review we have had other children, who have come from extremely neglectful places, tell us they have been bullied and that the group home is the scariest place they have been. Many are focusing on surviving. One youth said: “The most difficult thing in the group home was there was this young guy who was always after me, who wanted to fight with me. I managed to control myself but it was hard.” This is not to say that group homes cannot have employees who are dedicated, kind, and skilled – there are many such group home employees in the province. The problem is that many children and youth cannot function well in this kind of environment and need a situation closer to a family environment in order to thrive.

The United Nations Guidelines for the Alternative Care of Children state that “Facilities providing residential care should be small and be organized around the rights and needs of the child, in a setting as close as possible to a family or small group situation. Their objective should generally be to provide temporary care and to contribute actively to the child’s family reintegration or, if this is not possible, to secure his/her stable care in an alternative family setting...”¹⁰¹ It is challenging for group homes to meet this standard when the staff turnover rate is extremely high and they are dependant on part-time workers doing shifts. Many of the children and youth in these homes do not even know the names of all the people working in them who are responsible for their care. One roster of workers leaves a shift as another comes in.

A group home professional here in New Brunswick told us “A stay in a group home should not exceed one year.” A great many children and youth grow up in group homes until they are sixteen and can legally leave, or nineteen and are obligated to leave.

There are, it must be said, group homes that youth *love* – that youth don’t want to leave even after they turn nineteen. As one youth told us: “My sister and I love it here. We love coming here after school. It feels safe. We feel loved and welcomed. They are proud of us here.” Another youth said of the workers in his group home “they are like our parents.” Sometimes those relationships are so important that the end of those relationships adds to the trauma of these already trauma-inflicted children. As one youth

told us: "My supervisor [in a group home] was like a father to me; he passed away." For some, it is the structure that is important. As one youth said: "it has helped me to be a completely different person, I really need the structure and I like that there is someone available 24 hours a day, that reassures me a lot."

More than a few, but certainly not most, youth told us they have preferred their group home experiences to their foster home experiences. One young person who has aged out of the care system told us: "My foster home was horrible; they didn't treat me like the others. I was usually not allowed to see my friends and I had to pay part of the gas if I wanted to be taken to see my friends. In my group home I could go on outings, decide stuff for myself." Some young people said they liked aspects of their group home but mostly hated living there. Relationships are not easily forged in this environment. As one said: "I really liked [the group home Director], better than any social worker or other staff at the home, because she took the time to listen to me. She was like an aunt. She still contacts me. Everybody else working in that group home was always looking for something negative about me."

Other youth told us they felt they had been in their group home too long. As one said: "I've seen a lot of other kids come and go and I don't understand why I have to stay. I want to live in a family if they could find one, that has kids about my age or no other kids. But I don't want to move to another town or change schools." Youth told us they have had staff at group homes who have understood them and known how to talk with them. As one said: "My time at that group home was one of the most beautiful experiences of my life. I also spent 6 months at a foster home and [X] is like a mother to me still."

Group homes as a concept are perhaps not the problem. The real question perhaps is what group homes should be. As one youth told us: "The hardest thing about being in care is not feeling like this place is a family; staff are hired to work in this house, they have different shifts and they go to their home. I've tried to make it like a home but no matter how hard I try, it doesn't feel like a home". For a group home to be a home, there must be stability in staffing, with highly trained workers who understand and care deeply about child and youth development.

The other fact is that there are not enough group homes to house all youth in need of shelter. Seven years ago, our office advocated in a case of a teenager with Fetal Alcohol Spectrum Disorder who had been housed in a homeless shelter for adult males. The Minister of Social Development was his legal parent. As this current report goes to print, we are speaking with Social Development staff about current situations with youth in homeless shelters. The only difference is that the shelters we are talking about today are youth shelters. The fact that these are the province's children remains the same.

Even given the lack of sufficient group home availability, the province needs to ensure that all group homes meet required standards. During this review we heard from youth about problematic practices in group homes such as withholding food from youth if they didn't take their medication, laughing at youth in crisis, locking them in rooms, and listening to their phone calls (in violation of practice standards). One youth said, "This group home, it feels like I am in a jail environment." The Child and Youth Advocate is aware of cases in which social workers have reported the conduct of group home staff, and this is to be commended.

For many youths, the rules feel too onerous. "The expectations are high: change your friends, stop smoking, stop talking with your family all at once; it's not easy to do all of a sudden," a young girl told us. "You have to be up at 8:30 on the weekend. I don't understand this rule," said another. Many youths also felt there was too much inconsistency. "It's frustrating because the staff don't all have the same rules," said one youth. "There are way too many rules to remember, and half of the rules the staff don't even follow them," said another. We did also hear comments like this: "The manager at my group home would tell me 'mistakes are just mistakes'. She was really nice." Still, the rules can be a major impediment for a young person in the throes of development. For children often already struggling with feelings of having failed and with a high need for control of their environment, any rule or restriction should have an obvious, child-centered purpose. As one young adult told us: "Going to that group home at seventeen didn't work for me. I left, but then spent two weeks on the street. Then I lived with a guy for two weeks, but he asked me to leave. Still, I needed to leave the group home to have opportunities"

Not all group homes are the same, not all staff are the same and not all children and youth are the same. Experiences for young people in group homes will of course therefore differ. For example, some youth find group home rules to be less strict and confining than foster homes, and some find the reverse. Some youth actually told us they prefer group home living to foster care; as one said, "it was stricter at the foster family and there were little children there as well and I didn't like it." What we heard from the vast majority of children, youth and social workers, however, is that they would prefer the stability of foster care. One youth in a group home who had been in foster care told us: "Being in a foster family is more like being in your own family."

Decisions that result in young people living in group placements can make it harder for them to achieve permanence. Social workers told us that one of their main challenges is youth staying too long in a group home without a foster care placement, return to home, placement with kin, or adoption. Far too many children "grow up" in group homes, not because such placements are necessary for treatment purposes, but because the child welfare system has not created the capacity for more home-like environments for these children. Group home care often impedes opportunities for permanency for children. It

also creates barriers that prevent youth from having normal, healthy, important experiences, such as participating in extracurricular activities, having a part-time job, and building healthy relationships with peers and others in the community.

It is perhaps revealing that it is quite common for youth in group homes to want to work at a group home when they are older, usually to “fix” the problems they see. Some of the ‘fixes’ young people suggested seem simple to these youth, such as being able to have livelier colours and more decorations on the walls, or to have a pet (as one girl said: “I go into alert mode when things get tense, it would be good to have a dog or cat”). An eighteen-year-old told us that she is working on a project with two friends to have a centre to accommodate all the children who are under the care of the Ministry; “there would be wings for different ages and large areas where everyone could meet and socialize.”

Some stay in group homes for a decade or more. We met many who planned to leave care at age sixteen. The Ontario child welfare legislation provides that before a child is placed in or discharged from a residential placement or transferred from one residential placement to another the service provider shall ensure that the child is made aware of and understand, as far as possible, the reasons; the decision-maker must also take the child’s views and wishes into account, given due weight in accordance with the child’s age and maturity.¹⁰² If a child or youth does not consent to a final decision made by the New Brunswick Department of Social Development, the Department should have a mandatory process to ensure that the Child and Youth Advocate is informed.

We made official statistics requests to the Department of Social Development about the children in their care. The Department did not know the number nor ages of children and youth who have spent any time in a group home in a given year. The Department was incapable of telling us how many complaints are submitted from children in group homes per year. While some important information is placed in the Department’s case management system in individual files, there is a deficit of aggregated data. A social worker and perhaps their supervisor in a region knows facts related to specific children and youth in care, but the Department, to a significant degree, lacks knowledge of what occurs in the homes they put children in. It is not acceptable that the Department, which is supposed to meet the standard of a caring parent, does not know which group homes have the best outcomes or worrying instances of transfers and departures. No parent would send their child to a summer camp with as little knowledge as the Department has about group homes. The Department does not actually know how many group homes on average children and youth are moved to in the course of their time in care. Some workers estimated that most youths have 4-5 placements.

The problem is not only that the Department of Social Development does not track information from group homes, it is also that the Department does not provide information *to* group homes. A manager of a youth residential service told us, “There is

a lack of information sharing from Child Protection Services to us and to others, and we have these youth in our facilities – we need to know about them in order to help them.”

Connections in group homes

“Training for group home staff is very much about behaviour-management, as opposed to attachment-oriented and trauma-responsive, and group homes shouldn’t be about a behaviour-management model of care.”

A mental health professional

“I like it when staff ask about my day. I’d say about half of them care and the other half probably just do it for a job.”

A youth in care

“Sometimes I am screaming inside and trying to hold it all together. I am saying nothing and maybe they think I am fine.”

A youth in care

Several group homes have been mentioned by social workers randomly as being “fantastic” or “awesome.” We do not doubt this. However, we too often hear from youths about lack of positive connection to group home staff. Those group home workers who go above and beyond (and we know there are many) to make connections with children and youth in group homes should know that this statement does not relate to them. Nevertheless, it is what youth told us; it is how they feel. Traumatized children and youth can be difficult to reach. Group home staff need the support of clinical professionals to help make strong relationships with children and youth.

It is unrealistic to expect model behaviour from children who face constant unpredictability in their lives and are subject to sudden, jarring upheavals as they are moved again and again. A new location means new rules and new people to figure out. It is frightening. It is also bewildering. Kids are floating on the waters of this system, untethered, at the whims of currents they cannot predict. Maintaining relationships is difficult. Eventually, many of these youth tell us, they give up trying. It is terrible to see how often children blame themselves for what has happened to them - as if they were responsible for being separated from their parents.

The trauma suffered as a result of childhood abuse can disturb neurobiological development and alter a child’s ability to respond rationally to stress. A child’s stress response system can be set to react with a ‘short fuse,’ leading to behavioural issues that adults having control of the child may reflexively react to with harsh discipline.¹⁰³ A

mental health professional we spoke with is of the opinion that, “The focus in too many group homes is a reaction to behaviour but it should be a response to needs.”

Children’s rights do not stop at the group home door. Children and youth receiving child welfare services must have all appropriate legislative, administrative social and educational protections from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment.¹⁰⁴ This includes protection from other children or youth. As one youth told us: “I was never scared, even in school, before I first went to a group home. It only takes one bully. And plus, they are living in the same place as you.”

Children and youth may also be afraid of the people providing care. It was unsettling to hear this from a female former youth in care: “I wouldn’t say I’ve ever been sexually abused or anything in a group home, but have you ever had a guy check on you while you sleep?” We are not suggesting, by including this quote, that group homes are threatening environments. What that statement from the youth reflects is her perception and perspective of the practice. It may be that checking on teenagers when they sleep is necessary, or it may be overly intrusive – the Advocate’s point is that the practice was instituted without inquiring into youths’ feelings about it. Children and youth are living in group homes staffed by people who are strangers to them. There is a profound obligation to ensure that children and youth feel safe – not only that they *are* safe, but that they *feel* safe. This requires looking at every situation from the perspective of the child or youth.

The Department of Social Development does of course have practice standards that prohibit staffing below two people per shift,¹⁰⁵ but the difference between the practice standards and the reality is stark. We know for a fact that in some group homes when two workers are on a night shift, at least one of them is sleeping. This is not a practice that is condoned by the Department of Social Development. It is a practice that occurs because there is often a disjuncture between what group home staff do, what group home management knows about, what is reported to Social Development social workers, and what the Department actually knows.

We are absolutely not suggesting that there is a problem with sexual exploitation in group homes or foster care. Nor are we suggesting that there is a widespread problem with the kind of discipline or behaviour management in group homes or foster care. What we are stating is that the system as presently constituted is incapable of robustly protecting against harmful interactions between children and those providing care. This is because the children and youth in care too often feel powerless to report harmful behaviour by their carers. They tell us that they do not feel safe making complaints. It is a foundational human right that no child shall be subjected to cruel, or degrading treatment or punishment.¹⁰⁶ This applies in regard to children in care under the *in loco parentis* situation of group homes and foster homes. As required by the United Nations

Guidelines for the Alternative Care of Children: “All agencies and facilities should develop a staff code of conduct, consistent with the present Guidelines, that defines the role of each professional and of the carers in particular and includes clear reporting procedures on allegations of misconduct by any team member.”¹⁰⁷ The United Nations Guidelines for the Alternative Care of Children further state: “Carers should understand the importance of their role in developing positive, safe and nurturing relationships with children, and should be able to do so.”¹⁰⁸ This cannot occur consistently across the province if people directly working with children and youth where they are housed do not work in a rights-based model. The practice standards, regulations and legislation have not successfully ensured this kind of care. New regulations enacted in March of 2020 provide for requirements in group homes (and kinship homes, specialized placements, and foster care), and these are very welcome.¹⁰⁹ However, the Advocate believes that this is only a start, and that the protections and requirements stipulated in the regulations are the bare minimum needed.

We believe that only when all government actors working with children and youth consistently think in a rights-oriented frame of mind, and when children and youth themselves are empowered to understand and act upon their rights, will the system truly approach what it needs to become. The ‘Child Care Residential Centre Service Standards for Operators’ which establish minimum levels of performance for group homes, include many important principles and guarantees for the fulsome care and development of children and youth, but should be revised from a human rights perspective.

Staff turnover in group homes

“Staffing resources and lack of training prohibit high quality care for these children – that’s just the fact.”

A social work professional

“The wages they can pay their staff from Department of Social Development funding is clearly insufficient to retain employees. This is incredibly demanding work, and the qualifications are less to be an education assistant, which pays more.”

A social worker

“Currently Youth Care Work is sometimes viewed more as a stepping-stone instead of a career. The loss of experience and ongoing interruptions in relationships are having adverse effects on progress and connection for children and youth in residential care.”

A Group Home Management Professional

There are unquestionably exceptional group home staff, and they are doing difficult and extremely important work for remuneration near the lowest wages in the province. Our province should be very grateful for their efforts. These employees are often struggling with the demands of the work. Group home staff need the support of clinical professionals to help make strong relationships with children and youth. A frequent concern voiced by group home staff is also that youth care worker programs in college do not adequately prepare them for the reality of the work. Having a social worker on staff at each group home at all times would also be a due diligence measure that reflects the legal commitments to children of this province, as well as providing heightened professional guidance to all staff.

Changes of staff affect children and youth stability. During this review youth in group homes often told us how upsetting it was. The Department could not tell us (again because it did not track this) the turnover rates of staff in all group homes per year. The New Brunswick Association of Youth Residential Facilities (representing group homes across the province) does track this statistic, and found, for example, that between November 2015 and November 2017 turnover of employees was more than 100%. There were 521 resignations during that period, for 512 employee positions. One group home organization informed us: “In March and April of 2021 we interviewed 50 persons only 5 accepted positions with the organization while at the same time we lost 16 staff to resignations, terminations, and illness.” Group homes are constantly hiring and training new staff, only to have them leave for other positions. This has severe impacts on young residents who would benefit from stability and being able to establish long-term relationships to work on long term goals.

A Department of Social Development manager stated bluntly to us that “group homes have difficulty recruiting staff.” This is no secret. As a group home manager told us, “Appropriate funding for competitive salaries and benefits is non-existent, and funding for training outside of the nominal standard conditions of employment is rare; Social Development has no plan to address this issue and hasn’t for many years with successive governments.” The United Nations Guidelines for the Alternative Care of Children state: “Conditions of work, including remuneration, for carers employed by agencies and facilities should be such as to maximize motivation, job satisfaction and continuity, and hence their disposition to fulfil their role in the most appropriate and effective manner.”¹¹⁰ They also state that it is important to “ensure that there are

sufficient carers in residential care settings to allow individualized attention and to give the child, where appropriate, the opportunity to bond with a specific carer.”¹¹¹ The situation is perpetually dire in many group home organizations. One example provided to us was as follows: “At the start of the pandemic we lost 36 staff in 10 days, so we instituted a \$2 per hour pay increase for 8 weeks. Social Development sent us notification that they did not support this measure and did not provide funding to cover the increase in expense; we did it anyway in order to maintain service provision.”

An evident problem is the lack of a provincial strategy to increase and retain the number of qualified people to work in group homes. An added problem in many New Brunswick group homes is that part-time staff are not paid for (and are prohibited from) attendance at staff meetings and training. This leads to a major deficit in professional development. The Auditor General review of group homes and specialized placements found that group home employee training improvements are necessary.¹¹² A proposal was submitted in November of 2020 by the New Brunswick Association of Youth Residential Services to the Department of Social Development and Department of Health requesting special funding for group home agencies to access trauma-informed training. There has been no decision on this request to date. A child-centred system would insist that all group home staff, full-time and part-time, be provided with child rights and trauma-informed training paid for by the Department of Social Development. This is imperative, but it will of course not be effective unless the turnover rates can be lessened (“Training is pointless with our turnover,” as one group home professional told us).

Some years ago, governments here in New Brunswick and elsewhere began to professionalize the early-childhood education system. As our knowledge grew regarding the enormous developmental growth of children in early years, we realized that much of our early childhood sector was based upon outdated and simplified notions that it was analogous to babysitting more than education. Through a sustained effort, government collaborated with operators in that sector to increase the training of early childhood education workers and to correspondingly increase wages and recruitment. The result was a more professional, better-trained group of educators meeting new, improved standards for children. The same type of initiative is needed for group homes. The most vulnerable children should not be cared for by the lowest-paid employees. We urge the Department of Social Development to engage group home operators on raising standards, training and remuneration for these vital jobs, for all the reasons we shall cover in the next section.

RECOMMENDATION 4

The Department should collaborate with operators to develop a retention, training and standards plan for group homes to increase the expectations, pay and training of these important service providers.

Behaviour management in group homes

“You scream and they call the cops, and you get charged with assault.”

Sixteen-year-old youth in custody after living in a group home

“We are being called when a youth is gone for a minute.”

Police Officer

“Why are we getting involved in this stuff? Every time we are called by a group home we have to go there, and the young person gets a bad perception of us. These are adolescent behaviour issues, not police issues.”

Police Officer

“Because they wouldn’t take me out of that group home I ended up in jail.”

Former youth-in-care who had spent time incarcerated at the NB Youth Centre

A persistent issue is that in some group homes the police have been used as a behaviour control measure. As we stated in our More Care Less Court report: “Group home workers sometimes call police when youth do things for which most children would be reprimanded or perhaps grounded by parents.”¹¹³ Some group homes have excellent practices, yet some do not. Some police forces are frustrated with being used as babysitters, yet some have excellent relationships with group homes. Some Social Development regions have solid practices and protocols in place, yet some do not. This is all to say: there is inconsistency in approach throughout the province.

One Social Development regional office has recently created a protocol in conjunction with the local police force, the Crown counsel’s office of the Attorney General, and group homes in the region. The Child and Youth Advocate’s office was brought into discussions on the creation of this protocol, and we highly commend the effort, the process, and the result. This protocol allows for management of behavioural incidents to be handled by the group home and social worker (and if needed – probation officer), with police being called only if there is a criminal offence or serious safety issue. The Department of Social Development needs to look at this protocol and consider

developing a policy for the entire province, to end the needless criminalization of youth in group homes. We have heard many criticisms of the child welfare system from professionals in the youth corrections system – as one professional in youth corrections said to us: “tell them to stop letting these youth with mental health problems be criminalized; as the legal, parent, find a different road.”

A wise and conscientious parent would not allow a caretaker for their children to call the police other than in situations of grave danger to the child or another person. The police do not want to be babysitters, or counsellors. Also, we hear complaints about unprofessional police action at group homes and transition housing. In a representative democracy founded on the rule of law, police must be held to the highest possible standard, and if there is misconduct, then the Minister of Social Development should file a complaint.

A review of research on brain imaging concluded that several structural and functional brain differences are associated with abuse, neglect and other adversity at early ages.¹¹⁴ These brain differences put children and youth who have faced serious early childhood adversity in a more challenging situation for emotional and behavioral regulation. Behavior by children, such as skipping school and running away, is often symptomatic of underlying trauma-related crises or issues in school or at the youth’s placement. The criminal court system is ill-equipped to understand, let alone address, these issues. We would also recommend that the Office of the Attorney General address this issue in its guidelines issued to Crown Prosecutors so that Crowns can better scrutinize the appropriateness of charges when police recommend them, and be more aware of resources that can provide the basis of a diversion plan rather than attempting to use the criminal justice system as a form of child development. It may be worth considering the practice of embedding a specialized Crown office within the Department of Social Development to co-ordinate on files involving children in care.

The primary strategy for addressing noncriminal misconduct (status offenses) should be the provision of services to address the underlying causes of the behaviour, wholly outside the legal system. This is true even for youth in care who have court-ordered conditions or probation orders. It was disturbing to learn that Social Development professionals have been under the impression that they are under an obligation to phone the police every time a youth breaches a condition. Probation Services should be informed if the breach is serious enough, but the police do not need to be unless the breach includes a serious criminal offence.

The child welfare system needs to provide developmentally appropriate services for youth in care who engage in conduct that constitutes a legal offence but not a criminal one, and there should be no justice system involvement. This kind of approach is in accordance with the best interests of the child obligation under the *Family Services Act* and the principles and purposes of the *Youth Criminal Justice Act*.

MORE THAN A FILE

A thirteen-year-old boy found himself in youth criminal court. Our office attended court to advocate for an approach that did not criminalize him. This was a child with cognitive disabilities. It was very apparent that he had very little, if any, understanding of the court process he was undergoing. He certainly was not able to participate in the process in a meaningful way, to understand the nature of the proceedings, to understand any consequences of the proceedings, or to communicate with and instruct counsel. He didn't know why he was in court. There is a valid question to be asked as to whether *any* 13-year-old would be able to do so, but in this boy's case there were diagnosed 'mental disorders' that prohibited him from doing so in a way even close to what his peers might manage. His only interaction with a lawyer was with duty counsel, whose only question directly to him was to ask him how to spell his name. Group home staff and a social worker provided the other answers and the support for this boy.

In any reasonable interpretation of the Criminal Code (in our opinion), this 13-year-old with significant cognitive disabilities would be deemed unfit to stand trial. The process he underwent through court took many months and was a failure. The process was obviously not a timely intervention to reinforce the link between the offending behaviour and its consequences, was not adequately focused on correcting offending behaviour, was ineffective at encouraging him to acknowledge and repair the harm caused to the victims, included no referral to programs or agencies in the community to address the circumstances underlying his offending behaviour, was ineffective at holding him accountable, was ineffective at rehabilitating his behaviour, and was not meaningful for him given his needs and level of development.

Thankfully, upon his return to court on other charges, the prosecution and judge agreed to allow a case conference to proceed in order to inform sentencing. This was almost certainly the first time in this province that a social worker from the Department of Social Development coordinated a case conference under the Youth Criminal Justice Act. The Probation Officer contributed to the conference, as did a police representative, group home staff, the Advocate's office, community support services and others. That is how the system is meant to work, collaboratively and with the best interests of the child as a primary consideration.

RECOMMENDATION 5

The Department of Social Development should develop a Protocol with all municipal police forces and RCMP detailing the circumstances under which it is appropriate or not appropriate for a group home to call the police. This Protocol should also detail a mechanism by which police can notify the Department when inappropriate use of police intervention is occurring, and detail the appropriate roles of police. The Office of the Attorney General should review its Public Prosecution Operational Manual to provide guidelines for Crown Prosecutors reviewing charges emanating from group home settings to better scrutinize and seek alternate approaches to prosecution such as diversion.

The Auditor General review of group homes and specialized placements

In December of 2019 the Auditor General audited the Department of Social Development in relation to the functioning of group homes and specialized placements. This thorough and crucially important report found that the Department of Social Development “does not effectively manage placement and care of children and youth in group homes and specialized placements” nor “plan effectively to ensure adequate group home capacity exists in the Province.” The report also stated that there is “no standardized Department forecasting or resource planning for children coming into care.” The practice standards “have weak performance indicators.” And “Care plans for children do not meet standards.”¹¹⁵ During our review, these issues came up repeatedly, among many others. The most common refrain we heard during our review from professionals working in group homes was “the system is broken.”

The Auditor General’s office was of course focused primarily on whether the Child in Care Program Practice Standards are effective, efficient, and are being adhered to, and they found that they were not. Our concern is also whether they are *good enough*. To a large degree we find that they are not. The greater problem, however, is the serious lack of input to the Department from children and youth on the functioning of group homes.

SPECIALIZED PLACEMENTS

“Specialized placements are unpredictable – you never know how well-functioning or not they might be, but we have to set them up on short notice, getting a place for them and people to staff them.”

A social worker

“Specialized placements give the opportunity for some extremely intense work and support and provide stabilization. They do have a shelf-life. If a youth is there too long (beyond six months) the placement can start to work against itself as such an artificial environment is not meant to be sustained over extended periods.”

A Group Home Management Professional

The complexity of needs of children and youth in the child welfare system are laying bare the inadequacy of traditional group homes and foster homes to provide the trauma-informed clinical care required. As a result, the Department of Social Development increasingly has to turn to the *ad hoc* creation of ‘specialized placements’ that are meant to be tailored to the needs of individual children and youth who have special therapeutic needs.

These are not timely responses. A specialized placement can take several months to put in place. Nor are these budget-friendly responses. As the 2019 Auditor General review found, the average annual cost *per* specialized placement in one region was \$421,000.¹¹⁶ To reiterate: one placement for one child for one year is, on average, approaching half a million dollars.

Following the Auditor General’s report, Interim Practice Standards were created for what are now termed ‘Child-Specific Placements’. These practice standards speak to a trauma-informed model of care. These practice standards also note that New Brunswick and Canada have endorsed the United Nations *Convention on the Rights of the Child*. This is a good example of the Department attempting to ensure adherence to human rights. There will need to be training for professionals to understand what these rights mean in practice.

These specialized placements are necessary, at least until a Network of Excellence exists that includes a Centre of Excellence for children and youth with complex needs, supported by a number of multidimensional treatment foster homes throughout the

province. In the meantime, we are happy to see practice standards to guide their operation.

FOSTER CARE

“My foster parents changed the course of my life.”

A young person who has aged out of care

“Care within a child’s own community, including fostering, should be encouraged, as it provides continuity in socialization and development.”¹¹⁷

United Nations Guidelines for the Alternative Care of Children

“It took me a long time to get comfortable eating at a table with everyone around and talking. We didn’t do that with my parents.”

A youth in foster care

We all owe great respect and gratitude to foster care providers in this province. The impact they have on the lives of children is immense. They care for children who have not had much care in their lives. We met with foster parents who were looking after a child who, in the first 17 months of his life, had attended 47 doctor’s appointments. It is not uncommon for foster parents to adopt children in their care. Many foster parents we spoke with had done so. We met with foster parents who were in the process of adopting a child with Fetal Alcohol Spectrum Disorder, who would almost certainly not be able to adapt to a group home. Very often children who leave foster care stay in contact with their former foster parents. We met with foster parents who remained very close to adults who used to be in their care, welcoming them as family. Some foster parents will only take groups of siblings, to make sure they don’t get separated. We met foster parents who took in large groups of siblings, who had been violently abused and horribly neglected, could not speak, were in diapers at the age of four, and we watched those children come home from school and hug their foster parents, smile, laugh and talk about their day at school.

Many youth in care tell us they want to be foster parents when they are older. We should all hope they do so. The stories we heard from youth were usually very

heartening. One said, “I already feel at home. I see myself staying here long-term.” Another told us “I call them [foster parents] my forever family and I think of [foster parent] as my mother.” One said, “Our third [foster] family was the best. We had a hard time adjusting at the start but then it was very good. This family taught me to play the role of a big sister and no longer a parent to my little sister. I really got to live my teenage life.” A youth attending college, receiving post-guardianship supports told us, “The two people I can count on when I need to talk or cry or just be motivated for my studies are my foster parents. I still call them. I know that they will always be there for me.”

However, there is a dire shortage of foster parents, and very young children are going to group homes due to this.

A crisis in foster care resources

“We were lucky. Our foster family agreed to take us both. Otherwise, the government would have separated us because they had no other families who would agree to take a teenage girl and a little girl.”

A youth in care

“Our foster families are aging and leaving faster than we can find new ones.”

A supervisor in the Department of Social Development

“In terms of resources, we are in a state of crisis in the province, and we need to develop something planned in the long term not just be reactionary.”

A supervisor in the Department of Social Development

“One of my kids has been in a group home for six years. I am watching him slip away and I can’t stop it.”

A social worker

There is a foster care crisis. Department officials often use that very terminology. There are two aspects to this crisis. The first aspect is that the number of foster homes has been steadily decreasing. This has led to very young children being placed in group homes. While Child in Care Program Practice Standards state that group homes are designed for youth aged twelve and older, we now see very young children being placed in group homes because there is no foster care available for them. Sibling groups are not always able to be placed together anymore. The Department was incapable of telling us the average age of foster care parents in the province, but

anecdotally we hear that foster parents are retiring and the number leaving fostering outpaces the number of new foster providers. However, the crisis is not simply a failure of recruitment.

The second aspect to the crisis is the lack of foster care placements with the high level of therapeutic and clinical knowledge required to provide the necessary comprehensiveness of trauma-informed care. When children come into care with complex needs, it takes actual therapeutic acumen to handle them. A Department official told us that “complex children are burning out our foster parents.” This, we firmly believe, is because the foster homes are not equipped to handle complex behaviour with a trauma-informed approach. This is not a slight against foster parents. They do incredible work and everyone in the province should be appreciative of them and thankful of their commitment to kids. They are not, however, highly trained professionals in trauma-informed approaches. It is frankly unfair to place deeply traumatized youth with extreme behavioural issues in their care.

The province has never paid to create any positions that would allow highly trained professionals to be recruited. We recommended multidimensional treatment foster care placements years ago. Today, what we see is foster homes not being able to handle young people with complex needs, and these young people being placed in group homes with other young people and a staff that cannot address the complexities of behaviour.

The Department then might turn to a specialized placement. As noted, these are expensive, and *ad hoc*. They are not the therapeutic situations needed. When it all breaks down, or not enough has been attempted, a youth who is the child of the province might end up in a homeless shelter (or simply homeless on the streets).

Regional supervisors tell us that there are so few foster families that the question of which foster families would be best for each child cannot even be considered. We heard that there is no capacity in the system anymore to identify a proper match between a child and a foster family. It is more about what bed is available. Youth usually have multiple foster care placements. They would often have one that they loved, but it is inconsistent. One Francophone girl told us of the experience of her and her sister in a foster family where the family was Anglophone and spoke no French even though the girls spoke no English. They had to live there for two weeks before being moved.

Recruiting families is difficult in this era when both partners in a household need to work. Many social workers suggested to us that the province must revise the rate it pays them and significantly increase it or think about paying them an income equivalent to a full-time job to attract people who want to do this work.

The Auditor General undertook a review of the foster home system in 2013 and found that funding for foster families had not had a significant increase since 1996 and had not kept up with inflation.¹¹⁸ The budget tabled for 2020-2021 included a 25 per cent increase in the rates paid to foster caregivers to assist them in providing a safe and secure home to children under their care.¹¹⁹ This was very welcome news. What remains to be done is to create a statutory obligation to review foster home provision rates on a regular basis. As stated in the United Nations Guidelines for the Alternative Care of Children: “A pool of accredited foster carers should be identified in each locality who can provide children with care and protection while maintaining ties to family, community and cultural group.”¹²⁰

When the Auditor General undertook its review eight years ago, the cost of keeping a child in a foster home ranged from \$8800 to \$22,700 per year; the average cost of a child in a group home was \$95,751. That review found that in several respects the Department of Social Development was not meeting its own standards for foster homes nor adequately measuring performance indicators and goals in order to publicly report on the effectiveness of Children’s Residential Services. Many breaches of the standards were found, and several foster homes exceeded the maximum number of children allowed by the standards. More worryingly, the report found that the number of foster homes decreased by 41% over 8 years. This trajectory has not reversed in the years subsequent. The Auditor General’s report noted that lack of foster homes can lead to siblings being separated, children getting placed in homes far from family, home community, school and peer supports, children being placed in group homes, and a potential incentive to leave children in risky home environments when no foster care placement is available. Eight years later these problems have only become more acute. There remains no comprehensive long-term strategy to ensure that foster homes are available.

Foster care burnout and lack of complex capacity

“The system is putting a lot of expectations on foster families and the complexities of the children we place with them is not always realistic.”

A manager in Social Development

“I haven’t taken a weekend break in 4 years.”

A foster care provider

It would be unfair to suggest that foster parents are provided with no resources and left to their own devices. We spoke to a pair of foster parents who have access to a sitter 40 hours a week. She comes to their home after school and stays until 9 pm. On nights

that the children have all gone to activities, she will cook or bake to help the foster mother when the sitter has her day off the next day. This level of support is not common, however.

The stress on children and foster parents, especially during the initial period of placement can be extreme. It is unrealistic to expect that foster care providers will be successful with children with highly complex needs or that those children will adjust on their own without abundant support from professionals.¹²¹ Children and youth who have suffered abuse or neglect and been taken from parents often develop an expectation of, and fear of, rejection, which manifests in behavioural problems.¹²²

Regions find that children coming into care are presenting with much more complexity in terms of trauma-related behaviours and diagnoses and it is harder and harder to place these children in typical foster homes. Foster parents tell us they see more young people with disabilities such as fetal alcohol syndrome, and would like to have more training, support and coaching to know the best practices.

Therapeutic foster care exists in New Brunswick in name only. Social workers told us they do not have the clinical expertise to manage many of the children and youth in the system who have complex needs. Neither do the foster care providers in “therapeutic foster homes.” As one child-in-care social worker said to us: “We’re all drowning.”

The Office of the Child and Youth Advocate has been calling for several years for the creation of Multidimensional Treatment Foster Care placements. The essential concept behind this kind of care is that it is more effective to treat children from a family-based perspective when they exhibit problem behaviors such as aggression, defiance, and difficulties in social and school relationships.¹²³

There are many versions of this kind of care, and the effectiveness is well-founded in research. For example, the Multidimensional Treatment Foster Care for Preschoolers Program trains and supports foster caregivers through weekly parenting groups, individual therapy, family therapy, and 24/7 on-call support. This high level of support for foster parents continues for over half a year. Studies have shown that the program improves placement stability and mitigates the effects of multiple placements on later placement failures.¹²⁴

The children who can benefit from this approach have a lack of experience with typical, healthy family environments, have significant histories of maltreatment and trauma, and exhibit severe behavioral problems. They understandably do not immediately behave in accordance with the expectations of the families with whom they are currently placed. They require a period of adjustment. The extensive support through a Multidimensional Treatment Foster Care program allows for this.¹²⁵

This approach was originally developed to serve the needs of adolescents in the youth criminal justice system.¹²⁶ Over the years the program was adapted to address three main target areas for school-aged children and pre-Kindergarten children: behavior

problems, emotion regulation, and developmental delays.”¹²⁷ This approach has been proven to be effective in improving behavioral adjustment,¹²⁸ attachment behaviors,¹²⁹ and placement stability;¹³⁰ it has even been shown to cause neurobiological improvements in brain systems negatively affected by early life stress.¹³¹

In the Spring of 2021, the Department of Social Development, in partnership with the Department of Health, announced plans to create eight ‘professional care homes’ before the end of that year to better serve children with complex emotional, behavioural and health needs.¹³² As of the end of 2021, none had been established but six professional care home providers had been accepted and there is hope that they will be operational in early 2022. These homes are intended to support caregivers with training and clinical supports. It is a very welcome addition to the child welfare system, although it is not clear as yet how many such homes can be established, how the necessary supports will be delivered, or how the efficacy of the program will be measured. We cannot say with any certainty that these homes will be resourced to the levels necessary to provide the kind of multidimensional treatment foster care for which we have long been advocating.

As promising as the idea of these professional care homes is, there is no question that the vast majority of children and youth in care will continue to be placed in group homes and foster homes. In April of 2020, foster families received a 25% increase in child care rates and benefits. This was a very welcome investment from the Department of Social Development. However, it does not address the complexity of the problems noted above. Social workers tell us they ask foster families to take on more children than they are licensed for and make exceptions to the maximums. They told us that foster families are “set up to fail,” which leads to having to move children to new places. A child in care in this province can have half a dozen placements within a year. Short-term solutions do not address the bigger problems in the system. The lack of availability of foster homes is creating a situation where young children and workers are traveling an hour or more each way for family visits and it is demanding on the children, the families and the workers. The lack of supports for foster families caring for trauma-impacted children continues to create often desperate situations wherein children must be moved repeatedly, often to group homes.

Rules and behaviour management in foster homes

“My third foster family was like a real family. They knew how to do discipline properly, not like a punishment but explaining it to me so that I could understand.”

Eighteen-year-old

“In my first foster home, the rules were really strict: you had your own chair and you could only sit in that chair; you had to ask permission to take food from the fridge or cupboard; there were two couches but I was only allowed to use one of them.”

A youth in care

“I often had to stay in my room except to wash, eat and go to school because of my behavior. Once, I had to spend three weeks in my room before having any privileges again. This memory is the worst experience I remember from being in care.”

A former foster child

Most foster homes are lifesaving for children. However, they are, of course, not all perfect. Rules in foster homes vary, based on the particular home. One teenager told us they had to be in their bedroom by 8:00 in the evening. We were told how foster children would not be allowed to do things that the foster parents' biological children could do. One youth told us of how she was put in the shower with her clothes on when she returned from visits with her mother because her mother smoked, and the foster mother didn't like the smell; she told us that she felt humiliated. A young person who has aged out of care told us, “The foster parents were always pushing me out. They would ask me if I wanted suitcases for my birthday every year so I could move. But I didn't want to leave the system. I had no one else to support me and my sister.” The Department was incapable of telling us how many complaints have been submitted from children in foster homes or by professionals.

Forging connections in foster care

“I have received love from my foster family and their extended family. I feel like it's my family.”

A youth in care

“Their job should be to be foster parents – paid, full-time.”

A child-in-care social worker

For some children in foster care, their lives are like being in a close family. They swim, they skate, they dance, they camp. They play board games together as a family. It is not uncommon for former youth in their care to continue to visit them as adults.

It does happen, though not commonly, that foster parents are prevented from fostering due to abuse of children. It also occurs that children simply do not have a good foster care experience. As one youth said to us: “I didn't like foster care... the foster mother

would only get out of bed in the afternoon, she never brought any of us to our appointments, we weren't allowed to go to the living room... I was really afraid of hurting myself or hurting others in that place." These situations are the exception, though, and most children we speak with feel very fortunate to be in a foster home. The Department of Social Development has meetings with the Youth in Care Network, the Foster Family Association and the Group Home Association, and these are very important. The Advocate cannot help but feel, however, that there are insufficient mechanisms to allow the Department to hear the opinions and suggestions of all children and youth in care.

Foster parents provided many suggestions to us in this review, including these:

- Foster parents should be recruited from group home staff.
- The same social worker should be assigned for every child in the home.
- More information should be provided to foster parents about the young people brought to them (their physical and mental health, to have a more complete portrait of their behavior) so that they can adapt more quickly to the young person.

Social workers had many suggestions including these:

- A Provincial approach should be created for recruiting, retaining and paying foster families.
- Foster families should be paid a wage for a forty-hour workweek.
- The policy that prevents any employee of the Department of Social Development from becoming a foster parent is too prohibitive and the restriction should be limited to social workers and only then to children in their specific caseloads.
- Foster parents must have the ability to provide for the specific needs of children placed in their homes.

Youth in foster care had many suggestions including these:

- Government needs to find a way to make better matches between youth and foster parents.
- Government needs to find a way to have more foster families available so there are at least two different options presented to the youth to choose from.
- Government needs to keep sibling groups together (as one youth said, "that way, at least we have each other.").
- Social workers need to keep their focus on the child or youth, not the foster parent.
- Youth should be given the opportunity to create a questionnaire or prepare some questions they would like to ask the foster parents or group home workers prior to having to decide if they want to live there or not. Youth want more information to know if this home is going to be a good match for them.

- Visiting with a prospective foster family once is not enough (as one youth said to us, “it is intimidating and you can’t think of what you’d like to ask them at the time”). And the social worker should not be there when the youth and the foster parents have this discussion.
- In foster families, no more than a few young people should be in the household, including the biological children of the family. Otherwise, foster parents are not available enough for each individual child.
- Putting younger children with teens should only occur in limited circumstances.
- Let foster youth maintain contact with their extended family.

KINSHIP CARE

“They need to try harder to place kids with family, extended families.”

An 18-year-old in care

Placing children with relatives is the best option for keeping them connected to siblings and trusted family members.”¹³³ Kinship care has been shown to help alleviate the trauma a child experiences upon entering the foster care system, save staff and financial resources, and encourage stability and normalization for the child. Kinship care helps to minimize the trauma and loss of parental separation and prevents the stress of children adjusting to foster care with adults they do not know.¹³⁴ Research suggests that the average number of placements children experience can be effectively reduced by placing them with relatives¹³⁵ and that in addition to placement stability and higher levels of permanency, children in kinship care experience decreased behavioral problems.¹³⁶ Children in kinship care tend to be better able to adjust to their new environment, and less likely to experience school disruptions. In most circumstances, kinship care is the best option when children cannot live with their own parents.¹³⁷

Two years ago, a very common first on the wish list of those working in the New Brunswick child welfare system with whom we spoke was to have kinship care provisions in law. In one region of the province, we were told that only one of ninety children in care was in kinship care. Thankfully, the *Family Services Act* was amended in 2019 to include Kinship services, and in 2020 a *Children’s Services and Resources Regulation* provided more clarity. Getting the long overdue kinship care amendments realized was a success. It was a sad indictment of the province’s care for children to

have left this in limbo for so long. Ontario has had detailed practice standards for kinship care for 15 years.

We note that the current *Family Services Act* is under-inclusive in the options it provides courts in child protection cases. Sections 54-56 of that *Act* provide a court hearing a child protection case with fairly binary options – the Court either grants the Minister the custody, supervision or guardianship order or restores the status quo and returns the child to the care of the custodial parent.¹³⁸ Where there are other options for placement, the Court cannot hear them. This means that the Minister’s discretion cannot be reviewed if the Minister simply refuses to consider another option. We are aware of cases where loving relatives and even non-custodial parents have been refused even consideration because the Department has been slow to review them or develops tunnel vision in trying to return the child to a parent even after numerous years in temporary foster care. We are aware of one case where children were allowed to bounce between their mother’s care and foster homes due to constant removals, yet the Department refused to assess a non-custodial parent who was offering to provide a permanent home. In theory, this is to avoid duplication with private custody cases, but because private custody cases are stayed every time the Minister renews an order, children can remain in limbo. If there is another family member willing to provide care to a child, courts should have discretion under the *Family Services Act* to add them as a party and consider this option when making an order. Other provinces, such as British Columbia, provide this expanded discretion to courts,¹³⁹ and it would allow for an independent finder of fact to consider a full range of options and a more permanent solution.

This change could address other pernicious barriers to Kinship Services. For example, as a social worker told us: “If the grandparent or uncle has had trouble with the law 20, 30 or 40 years ago and hasn’t applied for a pardon, they cannot be accepted today as a kinship provider, and this limits placement options for kids.” We have even heard of cases where the Department disrupted stable placements that were working for children because of minor allegations against a caregiver. A criminal record is not to be taken lightly, of course, but to put this in perspective, at the start of this millennium, roughly one in ten people in Canada had a criminal record.¹⁴⁰ Many of them are parents, and it is easy to imagine that some might be the best, most loving option available to a child. Discretion for both Ministerial exemptions and judicial review of these decisions would allow for the more nuanced consideration these cases deserve.

Another barrier can be that kinship caregivers often find it difficult to get the benefits and services they need to take care of the children they’ve taken in. To prevent unnecessary and more costly involvement in the child welfare and other systems, kinship care services must ensure the financial stability of kinship families. As just one example, the new *Children’s Services and Resources Regulation* provides that “If a child receiving

kinship services does not have a health card, the Minister *may* provide a health card to the child to enable the child to receive services under the Health Services Act.” [emphasis added] In our opinion, provision of a health card should be mandatory for any child receiving kinship services who does not have health insurance, and the word ‘may’ should be replaced with ‘must’. A child taken into government care would have such health insurance, and the kinship care provider is saving the government the costs of taking the child into its care; we cannot see a rationale for the lesser health provision for children in kinship care. A further barrier, not uncommon to the child welfare system as a whole or any similarly complex system, is inconsistency of the process across the province. Social workers continue to acknowledge these frustrations.

RECOMMENDATION 6

Amendments to the *Family Services Act*, or, preferably, provisions a new *Children’s Act*, should allow courts to consider a full range of kinship options in child protection cases and provide for more nuanced reviews, in statute and regulation, of potential kinship placements.

RETAINING RIGHTS IN ALTERNATIVE CARE SETTINGS

*Children and youth in care cannot be subjected to arbitrary or unlawful interference with their privacy and they have the right to the protection of the law against any interference with their privacy.*¹⁴¹

“There is no privacy in group homes.”

17-year-old

*“All adults responsible for children should respect and promote the right to privacy...”*¹⁴²

United Nations Guidelines for the Alternative Care of Children

“They always listened in on me when I was on the phone. I don’t see anyone being comfortable complaining about a group home when staff is sitting there listening.”

A former youth-in-care

A nine-year-old girl in foster care was not allowed by the foster parent to close the door while using the washroom, and the foster parent had installed a webcam in the child’s bedroom (the reason given being that the foster mother wanted to see if the nine-year-old was jumping on the furniture). We were contacted by a social worker (much to her credit) who had concerns about the privacy rights of this nine-year-old. The fact that professionals did not immediately know whether this was a violation and how to address it speaks to the Department’s failure to take training in human rights of children and youth seriously enough. The Department of Social Development’s Child in Care Practice Standards in fact contain the following: “A child under the care of the Minister of Social Development has privacy rights. Caregivers are not the legal parents of the children they care for and therefore do not have the right to compromise the personal privacy of the child.”¹⁴³ The Foster Family Service Standards contain the following: “The foster family must ensure the child in care has privacy when using bathroom facilities, dressing, spending time alone, unless there are safety considerations or it is specified in the child’s care plan.”¹⁴⁴ At a bare minimum, privacy means not being spied on in the most personal spaces. It also means having a physical space to be alone without interference. It means security of one’s belongings (the right to own property and not to be arbitrarily deprived of it is such a fundamental right that it was included in the Universal Declaration of Human Rights).¹⁴⁵ It means the right to communicate with family, friends, lawyers, medical professionals and others, without interference by any service provider, subject only to justifiable restrictions for security concerns. Human rights are essentially about the dignity and worth of every person, and privacy is deeply connected with these values. The UN Committee on the Rights of the Child, the body responsible for providing interpretive advice to governments concerning the *Convention on the Rights of the Child*, has noted that the right to privacy takes on increasing significance during adolescence.¹⁴⁶

It is, of course, also important to protect the privacy rights of individuals *after* they have left the child welfare system. As our report is being finalized, a Bill before the Legislative Assembly of Ontario aims to ensure that privacy rights are respected for adults 21 or older who have previously been in the care of the government. The Bill would require that the Ministry may not, nor may any service provider, disclose information about a former recipient of child welfare services without that person’s consent.¹⁴⁷ New Brunswick’s Department of Social Development should be seeking examples of this kind from around the country to better ensure rights of those in its care.

Children and youth have rights to freedom of thought, conscience and religion.¹⁴⁸

Foster parents shouldn't force their religious beliefs or make us join in prayers before meals or get angry when we swear because it's against religion or something.

A youth in care

The child's religious or non-religious background should be fully respected when brought into care, and no child should be encouraged, persuaded or coerced to change their beliefs or lack of beliefs during a care placement. Of course, children and youth in care should be able to freely decide whether or not to participate in religious services or religious education.¹⁴⁹ Children and youth in care should be allowed to have any religious convictions supported, including by worshiping where they want to. This is presently a challenge for children and youth in group homes and, to perhaps a lesser extent, in foster care. Very importantly, there is also a right to abstain from the practice of any religion, and to abstain without stigma or discrimination from caregivers. This is very important in the context of foster care, where the caregivers may practice a religion that the child or youth does not want to practice. The Department of Social Development's Foster Family Service Standards document supports this right as follows: "The right to receive guidance and encouragement to maintain their cultural heritage promotes the child's positive sense of belonging and personal identity. A child also has the right to freedom of religion and the right to choose whether or not to participate in religious instruction or activities."¹⁵⁰

Freedom of conscience provides children the right to refuse to take part in activities they morally object to. As such, choices of children and youth in care must be respected, such as vegetarianism and veganism. This right extends into the realm of medical decision-making, in accordance with the *Medical Consent of Minors Act*.¹⁵¹

Children and youth in the child welfare system have the right to rest and leisure. They have the right to play. They have the right to access recreational activities organized in the community. They have the right to have opportunities to participate in cultural activities and the arts.¹⁵²

My foster parents have to pay to take me to stuff, pay out of their own pocket, and they shouldn't have to."

A youth in care

“There is funding for activities, but sometimes it just takes too long to get approval and then the kids have missed the sign-up deadline.”

A group home worker

If there is one thing we can do as a society for children who have suffered more than anyone should, it is to provide them opportunities to live like normal kids, with time and freedom to spontaneously play, to *chill out* alone or with friends, and to pursue any interests they have.

All of these rights are essential aspects of fulsome childhood development,¹⁵³ educationally,¹⁵⁴ socially, psychologically, and cognitively.¹⁵⁵ Play has an imperative role in early childhood development, stimulating children’s ability to learn.¹⁵⁶ Depriving children of play can stunt neurological development.¹⁵⁷ In situations of abuse and neglect, trauma prevents children from being able to play, and thereby inhibits their neurobiological development.¹⁵⁸ Involvement in recreational activities positively affects social inclusion,¹⁵⁹ self-confidence, mental health,¹⁶⁰ logical thinking ability, and academic achievement.¹⁶¹ However, recreational options are not always accessible for children and youth in government care.

Children and youth in care have the right to access information for their healthy social, educational, physical and mental development.¹⁶²

“Youth in care need to have more access to technology. We are not allowed to use the internet at the group home.”

A youth in care who is going to university to study music, supported by post-guardianship services

Access to information is an imperative right for fulsome development of children and youth.¹⁶³ While government is obligated to “encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being,”¹⁶⁴ it must do so bearing in mind the child’s right of “freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child’s choice.”¹⁶⁵ This is important for children and youth living in foster homes and group homes, who often may not have access to reading material crucial to their educational and personal development.



**PART 5. EVERYONE'S
CHILDREN – HOW
CHILD WELFARE IS
MEANT TO FUNCTION**

“These children are not the responsibility only of the Minister of Social Development, just because the Family Services Act says so; they have to be everyone’s responsibility.”

A social worker

“All the rules should be made for us, not made to make it easy for the government.”

Fifteen-year-old youth in care

“I have heard some individuals in the field in positions of authority say out loud that the system is “broken.” I do not agree with this statement and such thinking gives a cold shower to the important work being accomplished with at-risk children and youth in this province.”

A Group Home Management Professional

Children in the child welfare system are too often treated as if they are nobody’s children. They need to be seen as everyone’s children. We have created laws as a province, as a society, to protect them and ensure that they can develop safely and fully. In a democracy the people are the state – and when children are brought into care, we as a citizenry entrust government representatives to care for them. We have not, however, managed as a society to ensure that everyone in government working with children carries responsibility for the healthy development of children in the Province’s care. There is a gap in collaboration and accountability.

WISE AND CONSCIENTIOUS PARENTS

It is acknowledged that when it is necessary to remove children from the care and supervision of their parents they should be provided for, as nearly as possible, as if they were under the care and protection of wise and conscientious parents...

New Brunswick Family Services Act

A dictionary definition of the term “wise” is: (1) “characterized by wisdom: marked by deep understanding, keen discernment, and a capacity for sound judgment”; and (2) “exercising or showing sound judgment: prudent.”¹⁶⁶ A dictionary definition of the term “conscientious” is: (1) “meticulous, careful”; and (2) “governed by or conforming to the dictates of conscience: scrupulous.”¹⁶⁷

We believe that it is possible for the child welfare system to treat the children for whom it has legal responsibility in ways that are prudent and conscientious. The social workers delegated to undertake the government’s parental responsibilities, and the foster parents, group home staff and kinship carers who provide the services meant to afford care and protection, are under severe resource constraints. They face huge challenges without adequate support.

In our individual case advocacy work, we see continual examples of children not being “provided for, as nearly as possible, as if they were under the care and protection of wise and conscientious parents.” This is true of the operation of the system broadly as well as the functioning in individual situations. As an example, a youth in care with suicidal ideation was brought to hospital and discharged without a social worker arriving. She was then taken to lockup by the RCMP. It took the afterhours social worker more than 3 hours to visit her there. This surely would not happen to a youth with a prudent and conscientious parent.

The Department does not know how many of its children are in a homeless shelter at any given time, or even how many in a year. It does not know how many are in hospital. It does not know how many are in prison. A prudent and conscientious parent would know these things. In this report we relate some situations wherein individual children were not provided wise and conscientious care, but rather were only provided with what professionals were able to allow with meagre resources. This report is not focused on individual cases, though, it is focused on the system as a whole. Some aspects of the system stand out as examples of how the government as parent does not act sufficiently as a wise and conscientious parent who puts the needs of their children first. It is hard to imagine a parent who does not know how their child is doing in school or even if they are attending school, a parent who moves their child from residence to residence due to financial constraints without undertaking a thorough accounting of their budget, a parent who does not know whether their child has been arrested, a parent who does not rush to the hospital when their child has been admitted, or a parent who lets their child leave home to live on the streets without finding them and trying to convince them to take a safer path. In fact, while it may appear to be hyperbolic to suggest, if the government were held to the standards the law says they must be held to, children in some care situations perhaps would be removed *from government care* due to neglect.

For children in the care of the government, the Minister of Social Development is responsible under the legislation to “provide care for the child that will meet his physical, emotional, religious, educational, social, cultural and recreational needs.” While this is unquestionably important in terms of each individual child, the Department also needs to know how the system is functioning as a whole, which requires data collection. In addition to the information already noted, the Minister also does not know the following about the children and youth taken into its care: how many children in its care are in school or have dropped out; how many children are on track to graduate high school; how many children go on to post-secondary education or a training program; or how many youth refuse services when they can at age sixteen.

CREATING A SYSTEM THAT IS CONSTANTLY IMPROVING

“Everything in child welfare in this province is about managing crisis.”

A social worker

“Everything secret degenerates, even the administration of justice; nothing is safe that does not show how it can bear discussion and publicity.”

Lord Acton, 1861¹⁶⁸

One thing that has been abundantly clear over the years is that the Department of Social Development is incapable of effectively managing the child welfare system on its own. Nor should it have to. We as a society have decided to care for children who are abused, neglected, abandoned or left without parents and family. One can only assume that we as a society therefore expect all of government to act in a prudent and conscientious parental capacity to these children.

All government Departments that have services impacting children should have clear roles to play in the child welfare system. *However, what has unfortunately also become abundantly clear is that the Department of Social Development has become, over the course of many years, a closed organizational culture.* There are recent signs that this may be changing at the highest levels of management at the Department, but the challenge of overcoming this ingrained insularity is massive. A very significant problem

is that to a large degree the Department of Social Development has operated with a seemingly adamant independence. There has been very little outreach to other child-serving areas of government for collaboration in the best interests of children. We continue to find significant frustration about the Department of Social Development from health professionals, education professionals, and others; when confidentiality is perceived as a cloak to avoid accountability, it creates distrust. We have heard from those within the Department of Social Development that lack of collaboration is largely due to lack of time, because child welfare is crisis-driven. We have also heard from people within the Department of Social Development that there is a fear of public accountability and public outrage.

It is quite telling that the government-commissioned independent review of the child protection aspect of child welfare services occurred as a response to a horrific example of criminal neglect.¹⁶⁹ This long-overdue review of how child protection services operates did not come as a result of proactive thinking and planning. It came as a result of a crisis, seen by the public through media coverage of a criminal court case that laid bare some of the failings of the system. It is also perhaps telling that that review was not mandated to look at how the Department of Social Development works with (or fails to work with) other Departments and stakeholders; it is understandable that the mandate provided to the independent reviewer was constricted, but this means that a truly comprehensive review of child protection has not yet occurred.¹⁷⁰

An extremely significant problem is that professionals interacting with the Department of Social Development in the child welfare system view the Department as having a culture obsessed with information containment and public relations damage control. Whether or not this criticism is an accurate indictment of the Department's *intent* or only of the Department's effect is not particularly the issue – the fact is that many stakeholders from a wide range of fields believe it to be the Department's intent, and this creates a crisis of confidence in terms of the Department's perceived motives. One reason for this accusation is the low level of data collection and analysis. Another is the lack of transparency concerning the functioning of operations. A further reason is the lack of information-sharing in individual cases when experts outside the Department are involved. Many also feel that the fact the Department has not commissioned an independent review of child in care services (as it did with child protection services) is revealing of the culture of information containment and damage control.

From the Advocate's perspective, the most significant problem is that the system has for a long time suffered from a reluctance to truly hear from, and give credence to the opinions of, the children and youth it serves.

It is human nature to not want to face criticism constantly. This is one of the reasons why working in child welfare (or education or youth criminal justice or child and

adolescent mental health care) is so difficult. Public criticism is very common in these systems, and it can be difficult for professionals not to take it personally even when they know it is within the system and not themselves that the problems lie. However, it is essential that these systems remain open to criticism. We create systems in society to organize ourselves. Those systems are not perfect and never can be. By and large, the systems work, at least at a basic level, as they have been set up to work. However, one doesn't need to look hard to find problems in any system. If the people managing the systems get into a mindset that they need to protect the reputations of these systems by pretending that there are no problems, then that is a huge problem. We have to be able to admit to problems in the system. Not only that; the system *should actively be looking for problems*. The best organizations search for problems in pursuit of improvement. This is currently a major failure in the child welfare system. The system does not comprehensively seek to identify problems and solve them. To an inordinate degree, the system churns along, repeating the same mistakes. A comprehensive quality assurance regime is required for continuous learning to improve the system.

The New Brunswick Government engages in many strategies that attempt to coordinate a collaborative approach to social challenges. The Crime Prevention and Reduction Strategy, the Poverty Reduction Strategy, and the Harm Reduction Strategy are some examples. These strategies are successful or not depending on the level of commitment and responsibility undertaken. The work of the Crime Prevention and Reduction Strategy, for example, has engaged many sectors and the results have been astounding. As we write this current report, there are only six young persons in the youth detention and secure custody facility. This reflects steady success of crime prevention for the past five years. Prior to that, the numbers were always in the dozens. This strategy has worked for youth in the justice system. There is no strategy for children in the child welfare system.

RECOMMENDATION 7

The Department of Social Development should lead a collaborative project to create a Child Welfare Strategy.

RECOMMENDATION 8

Program reviews of all aspects of the child welfare system should occur annually and should involve interaction with social work academics at both l'Université de Moncton and Saint Thomas University who are immersed in current research on best practices.

Transparency and accountability

For a highly functioning system there needs to be information sharing among professionals in the best interests of children. There also needs to be some way for professionals and the public at large to have some idea of how child welfare services operate. The Department of Social Development does not make policies or practice standards publicly known. They are not available online. As an example, the Department's website does not include the Child in Care Program Practice Standards – the standards that those acting for the Minister must meet when providing services to the children in the government's legal care. We have even encountered situations in which Department officials have refused to share practice standards with youth in care. It is not possible for a young person or their advocate to know what they can expect from the system when the expectation standards of service providers are kept secret.

This is hard to justify. We note that it is common, in a rule of law-based system, for those exercising authority over citizens to make their standards clear and predictable. As an analogy, we note that it is universal practice for prosecutorial guidelines and manuals to be made public by the Attorney General's Office in all Canadian jurisdictions. Even defendants and defence lawyers in an adversarial system can know what standards and rules govern prosecutions, and it is a tool for making the office accountable for treating all cases equally based on the facts. There is no reason this should not be done in the child welfare system.

The Department's website does have the Child Victims of Abuse and Neglect Protocols (albeit incorrectly titled on the website). However, these have been in a state of revision limbo for years and are so far out of date that we have not met anyone working in the fields of health, education, public safety or child welfare who uses them. The Children's Residential Services (Foster Homes) Practice Standards for Social Workers are not on the Department's website. The Youth Engagement Services Practice Standards are not on the Department's website.

Perhaps most surprisingly, the Foster Family Service Standards are not on the Department's website. This document providing the obligations of foster parents and the rights of children in foster care, is not publicly available. Moreover, while there is information on the Department's website on how to become a foster parent, there is no statistical reporting of any great value. The 'Foster Homes' link under 'Publications' is a chart with five lines containing only the number of foster homes from 2012 to 2016.

There is also a lack of public reporting on how the system is functioning. Children and youth in care are not visible in the Department's most recent strategic priorities (annual report 2017-2018). None of the performance measures mentioned in the most recent annual report are about children or youth in care. The Department reported child protection program statistics annually from 2005-2011, and then stopped. Those statistics published in previous annual reports were not helpful in any case, as they only listed the number of cases and number of individuals involved for each month. There was no useful information about child in care services. Nevertheless, even this public reporting stopped. No government institution which so forcefully impacts the lives of children should be so highly insulated from scrutiny.

Moreover, the Department's entire website has information that may be misleading to the general public. For example, the website states that child in care residential centres (group homes) "deal with" youth in Open Custody.¹⁷¹ This has not been the case for more than a decade now. Another example is that a link about the 'Youth Services Partnership' states that it is "a collaborative network that facilitates effective and efficient delivery of programs and services for youth at the local and provincial level" and that there "are 10 YSP committees provincially". A savvy viewer might notice that the annual reports for the Youth Services Partnership end in 2006-2007 and perhaps might guess that the program no longer exists – which is correct. Then again, statistics on children in care of the Minister end in 2011, and we hope no one assumes that we no longer have children living under the legal care of the Minister of Social Development.

The website contains a Youth Strategy report from 2011 that is a sad reminder of the lack of commitment to youth engagement generally undertaken by government.¹⁷² The report states: "The government of New Brunswick has placed youth at the centre of its priorities by funding a Youth Secretariat which challenged the youth movement to rally around the creation of a provincial youth strategy that would mobilize all stakeholders." In reality, there is no Youth Secretariat. The report also states: "The Youth Strategy encompasses the most complete and exhaustive engagement exercise on the state of young people in New Brunswick." This "most complete and exhaustive engagement exercise on the state of young people in New Brunswick" was ignored completely. There is no provincial youth strategy.

We make note of all this because it reveals an apparent lack of will to publicly report on crucial matters of child welfare, and an abandonment by government of sincere engagement with young people and important collaborators.

RECOMMENDATION 9

The Department of Social Development should immediately place all practice standards and policy directives related to child welfare online for public access, and work with the Child and Youth Advocate to plan for annual public reporting, beginning in 2022, on statistics related to the child welfare system.

Updating protocols and practice standards

The Department of Social Development's practice standards and protocols need to be updated on a continual basis. These should be 'living' documents, amended to reflect current practice and to incorporate emerging best practices.

The Department suffers from too few policy development professionals. The needed work cannot get done. For example, the Structured Analysis Family Evaluation for prospective foster parents and adoptive parents is not included in any practice standards, not by choice but because the highly capable people who would do this work also have innumerable other tasks.

In response to a recommendation from the Auditor General, the Department stated the following:

“The Department reaffirms its commitment to continually reviewing standards to ensure current policies, procedures and guidelines are referenced in the document.”

This commitment, if there has been one, has been neglected. As another example, the last Children's Residential Centre Service Standards for Operators was in 2010.

Furthermore, it is important that actual practice can be measured against evidence-based best practice as reflected in standards. When speaking with social workers it is not uncommon to hear that they do not have time to consult the practice standards – their work is extremely busy. Of course, supervisors help to ensure that practice standards are followed, but what seems to be missing throughout most of the child welfare system is auditing of actual practice against the practice standards.

Feedback to government on the effectiveness of the system

Management in all government Departments needs to recognize that they work in a system with issues that are unpredictable and impossible to fully control, and therefore to accept that new problems will always emerge which must be continually addressed. The Department of Social Development should develop feedback mechanisms to hear from social workers, from other professionals such as those in the health, education, and justice systems, and from non-governmental organizations operating with the child welfare system. Creating a system informed by evidence of what works best also necessitates academic research connections. Presently this is woefully lacking, even though Saint Thomas University and l'Université de Moncton have social work programs with academic experts willing to contribute. There is also an obvious need to learn from front-line service providers. The lack of such consultation is a source of frustration. As one manager in the group home sector stated: "Many times we see SD hiring so-called experts in the field instead of consulting with the persons actually receiving or providing the services."

The best measure of how the system is working is what children and youth in the system say about it. Very regrettably, the Department of Social Development does not collect data directly from the views of children and youth. The Department has not developed processes to collect adequate feedback from children and youth on their experiences in care. The Department therefore does not have an adequate outcomes framework to measure their success in the developing lives of children in their care. To be blunt: the Department has no way of knowing how well or poorly it is doing in their legal obligation to be a "wise and conscientious parent" to these children.

RECOMMENDATION 10

The Department of Social Development should work with social work faculty at both l'Université de Moncton and Saint Thomas University to design consultation tools for children and youth in care, and the consultation should occur each year for longitudinal data collection.

A SYSTEM THAT SUPPORTS SOCIAL WORKERS

“Let’s be clear: social workers are almost always exceptional.”

Child-in-care supervisor

“Government needs to add workers to all teams because we cannot meet operational standards.”

A child-in-care social worker

“There’s a fine balance between personal health and giving all that you can give. The Department allows flex time for hours worked over full-time, but you have to take those hours within a month; most of us just don’t write down the flex time hours. We are too busy to take it.”

A child-in-care social worker

“I feel that we are at the point when something horrific has to happen for the system to change.”

A child-in-care social worker

“We add, and we always add, new administrative requirements. We can’t develop the expertise of our social workers because of the administrative burden.”

A Regional Supervisor

Even if the Department does not have data at hand, we know anecdotally that there is “huge turnover of social workers, supervisors and managers,” as a regional manager at Social Development told us. Very often a large roster of social workers is hired immediately after graduation from a Bachelor of Social Work degree and these newly minted social workers are thrown into child protection services or child-in-care services with no previous experience. It is impossible to understate the difficulty of these jobs.

The child welfare system faces chronic challenges in recruiting, retaining and training a qualified workforce to respond to the diverse needs of abused or neglected children and at-risk families. Regions are struggling to find enough social workers for child-in-care work. The challenge may not be as crisis-driven as the child protection system, but there are serious difficulties. Managers in regions told us that this has an impact on the

quality of service being provided to youth and their families. There is a lot of stress on the workers because of the demands. This stress is not helpful in retaining quality staff.

Social workers want to be able to be advocates. This is what they are trained to be. They need the freedom to be advocates within their own organization, advocating for children within the Department of Social Development. It must be recognized and admitted that no child welfare system is, or ever will be, perfect and social workers for children in care need to be able to advocate for children against the very policies, standards and decisions of the Department in which they work. The Department needs to assure them that they safely can.

Social workers become social workers because they care, and they want to help. Through our review we have concluded that they are forced to do too much paperwork and not enough social work. Bureaucratic procedures hinder social workers' ability to take actions in the best interests of children. Administrative obligations inhibit social workers from having sufficient contact with children in their care, and from ensuring robust care plans for them. A young person's interests need to be cultivated and provided space and opportunity to grow. Children and youth have a right to freedom of expression¹⁷³ and association,¹⁷⁴ in order to promote the emergence of self-identity, a crucial aspect of healthy child development. Social workers and caregivers need to be provided the time to be able to facilitate connecting young people with groups in the community or school, such as the New Brunswick Youth in Care Network, Indigenous cultural organizations, LGBTQ+ associations, clubs and sports teams. As one social worker told us, the administrative tasks "continue to grow and eat away at the time for working with families and young people." As another said, "We just do so much that is not social work with our kids – the administrative stuff we have to do is crazy." A child welfare system that supports its social workers is one that keeps the administrative burden to an absolute minimum, invests in creative ways to retain its workforce by limiting stress and allowing flexibility, and invests heavily in continual skill development.

Social workers are knowledgeable in the essentials of child development. However, the distance between all that social workers *understand* about child development and all that New Brunswick government *does* for child development is far too wide. Notwithstanding the expertise of social workers, they feel unequipped sometimes; we heard repeatedly from social workers that they would like more professional development. In the words of one, echoing the words of many: "We need more regular ongoing training."

As well, we note that the *Education Act* provides tools for the Minister of Education and Early Childhood Development to provide input to university Faculties of Education on curriculum goals and standards that meet the practice needs of the education system.¹⁷⁵ There may be a benefit to providing some authority to the Minister of Social

Development to accredit Social Work programmes for hiring so as to provide the Department with the ability to ensure needed competencies and subjects are part of social workers' training.

In 2019 the Auditor General recommended that the Department of Social Development ensure required training is completed in regional offices, group homes and specialized placement facilities before caseloads are assigned to personnel. The Department's response was: "The Department's training policy stipulates the importance for all social workers working in child welfare programs to complete the Child Welfare Training Core 100 Series *within their first year* of employment" [emphasis added]. Work starts for new hires long before training is completed. It is our belief that social workers are placed into very difficult roles without completing training first because the system is overloaded with need and under-resourced with staff.

All practices undertaken by people working in the child welfare system must conform to legal directives. What social workers do must conform to their practice standards, and those standards must conform to regulations, which in turn must conform to the *Family Services Act* and other legislation. All legislation must conform to the Canadian *Charter of Rights and Freedoms* and must be interpreted with a presumption of conformity with obligations under the UN *Convention on the Rights of the Child* and other ratified human rights treaties.

The law is not a constraint to doing the best possible work for children and youth. The law requires all actions to be taken in accordance with the best interests of the child. Very rarely do we encounter social workers who have a firm grasp of the provisions in the *Family Services Act*. The training in this regard is inadequate. Social workers must be given latitude to exercise their professional discretion because they have expertise and they deal with complex problems – but their actions must conform to the law. The *Family Services Act* is not a 'Terms of Use' contract on a website that one clicks 'I agree' to without reading, simply because one wants to download an app and get on with it. The *Family Services Act* is the law, and social workers in the Department of Social Development only have jobs in order to further the legislative mandate under that Act.

Legal guidance for social workers

The Advocate's review of a situation of criminal neglect – Behind Closed Doors¹⁷⁶ – concluded that social workers appeared to be unaware of the legislative provisions that allow child protection workers to enter a premises and intervene when children are reasonably presumed to be in danger of abuse or neglect. In our case files we continue to see too many instances of child welfare professionals failing to act due to indecision

or fear of legal ramifications. We very often find that child protection workers are hesitant to act in what they believe to be the child's best interests due to uncertainty of the law, and we find that uncertainty of the law is also an impediment for child in care social workers. All social workers in the child welfare system need to have confidence in their abilities to protect children who are in danger of abuse or neglect and to ensure the rights of children who have been brought into care. The Department of Social Development and the Office of the Attorney General should collaborate to provide child welfare solicitors to act as consultants to child protection services, child in care services and child residential services professionals, to provide assurance to social workers of their abilities to act in the best interests of children in all situations. This could be accomplished even under the existing terms of the governing legislation, *An Act Respecting the Role of the Attorney General*.¹⁷⁷

MORE THAN A FILE

Zoey is a 10-year-old child. Her mother has struggled with addictions, homelessness, and mental health issues for all of Zoey's life. Zoey often stayed with different people in the community. She has been in and out of her mother's care for most of her life, with no stability in sight. In 2019, while her mother was in an abusive relationship, the Department of Social Development decided that Zoey could no longer stay with her mother, due to concerns for Zoey's safety and wellbeing.

The Department of Social Development approached a couple who had been tangentially involved in Zoey's life, and asked them to take her into their home. Zoey's mother agreed to this, and the couple took Zoey in, but with no formal or legal arrangement. For two years, this couple cared for Zoey without any official support from Social Development, and she viewed them as her parents. However, there was only one legal parent during this time, that being Zoey's biological mother. The Department of Social Development did not apply to court for custody or guardianship during this entire period, and the couple had no status even as foster parents.

When Zoey's mother began to take some actions that made Zoey's carers think she would take Zoey from them, they got worried. The Department of Social Development was surprised and was of the firm opinion that Zoey's mother's addictions and instability meant they would not allow Zoey to return to her. However, because the Department of Social Development had allowed this informal arrangement to continue, the Department had no legal way to stop this from happening other than to wait until Zoey's mother took Zoey and then to take Zoey back under a child protection intervention. This level of insecurity for a child is unconscionable. What may be surprising to

the general public is that this situation does not reflect a lack of caring by the Department staff involved, but rather a stunning deficit of foster care or kinship care options for a young child in desperate need, and a lack of understanding of the legal issues. Having a lawyer on staff to provide guidance in such circumstances would surely be a great help to the Department, and could save children from being caught in legal traps.

Resourcing social workers

Following a recommendation from the independent review of child protection services, all child protection social workers now have cell phones. The fact that they did not previously have them is a reflection of how under-resourced they are to do their jobs. Similar under-resourcing occurs in child in care services. As one manager told us: “This MBA mentality has become ingrained – financial, financial, financial.” A social worker said: “Management started coming down on expense claims like travelling to youth where they are, whether in Restigouche [the youth mental health unit in hospital], NBYC [the youth detention and secure custody facility] or group homes.” And another child-in-care social worker mentioned: “Thirty bucks doesn’t buy much for a birthday present or a Christmas gift, but that’s the maximum we are allowed. We all put our own money in to buy something decent.”

We would note again that better tracking of results would allow for a shift in how social workers are directed. Right now, the culture in the Department is one that prioritizes adherence to rules above results. If data is kept that allows regions and workers to be measured on results, front-line workers can be given more discretion. It is highly likely that a trained, caring social worker can evaluate the needs of the children they work with better than someone in an office can write a rule that predicts the universal needs of all children. Giving social workers some discretion on budgets and measuring the results is better than forcing social workers to be sentinels of rule enforcement with their clients. We again urge the Department to make this shift from a compliance-first model to a results-first model.

The Child and Youth Advocate’s Office avoids to the greatest extent possible commenting on financial policy decisions of government. What the Advocate will comment on is the necessity for transparency in budgeting and spending. Our office has called for government to produce an annual Children’s Budget,¹⁷⁸ as exist in other jurisdictions, to account for spending on children and youth and with specific budget lines for vulnerable child groups. At the very least, the Department of Social Development’s Child and Youth Services branch should be able to create a budget of spending for children in the child welfare system. This could also be done through an Integrated Service Model that has proper multi-department planning for children.

Government is required to undertake all appropriate measures to implement all rights of children and youth, including legislative and administrative measures.¹⁷⁹ In accordance with the United Nations *Convention on the Rights of the Child*, government is obligated to undertake measures to implement economic, social and cultural rights of children to the maximum extent of the Province's available resources.¹⁸⁰ A wise and conscientious parent puts their children first in all matters, including in the family budget, and we would expect no less from government when assuming parental rights in regard to children. The creation by the Department of Social Development of a detailed child welfare system budget, made publicly visible, would be a good start.

MORE THAN A FILE

Child welfare services is always balancing risks and operating with some unknowns. It is an extremely difficult field in which to make decisions. It is crucially important that social workers have the time to ensure the safety of children. Louise is a one-year-old who was returned to her biological father six months after the Department of Social Development had obtained a court order for Louise's custody and placed her in a foster home. The Department was of the opinion that the father had met the case plan objectives for reunification with Louise. However, notwithstanding several safety concerns raised by the foster care provider, Louise was returned to her father and the social worker did not have the time to do a home visit prior to Louise's return; the social worker did not in fact visit the home until ten days later, when Louise was already again in the legal custody of her father. Within months, her father was arrested for multiple weapons charges and various other criminal charges. Louise was returned to the foster care provider.

COLLABORATION

“We’re still working in silos.”

A social work professional

“Kids are left in crisis because everyone thinks everyone else should be taking the lead.”

A child-in-care social worker

“When the services communicate well together, the young person has the information they need, they are involved in decision-making, they develop confidence in the system, the social worker and the whole team – the young person has more success.”

Mental Health professional working with youth in care

Children’s lives are complex, as all lives are. Guidance through the stages of childhood and adolescent development requires skills beyond what group home staff, foster parents, kinship carers – who all get support from a social worker – can provide. While a child’s social worker has legal parental rights and responsibilities, their caseloads are large, and they generally see the child only once a month. Guidance for the child requires people to work together. Unfortunately, the work is too often characterized by tension amongst professionals rather than collaboration between them. Currently, the child welfare system inhibits collaboration between social workers, teachers, guidance counsellors, probation officers, health support professionals, psychologists, pediatricians, police officers, advocates and others. Practice standards are not developed collaboratively by all relevant stakeholders, and therefore practices do not occur collaboratively.

The child welfare system cannot function with one Department having almost total responsibility. The Department of Social Development operates to far too great an extent in a silo. This makes the work of social workers in the system too burdensome. The child welfare system in New Brunswick has not developed in a way that understands how to utilize the expertise of professionals beyond social workers within the Department of Social Development.

Every person who provides services to a child must be an advocate for that child. They are too often prevented from being an advocate for the child because the system in

which they work prevents true collaboration. Professionals in all child-serving areas should be consulted to determine what is needed to prevent child abuse and neglect, and how to ensure optimum child and youth development.

In our experience, we find that the Department of Social Development reaches out to other professionals very rarely. Professionals who should be working together too often operate in tension and distrust, with a lack of understanding of one another's work. Integrated Service Delivery (ISD) has been developed as the mechanism for intended formal collaboration. ISD is a process that connects public service providers in education, mental health, child protection and more, as part of a team that develops early intervention plans for children and youth who have complex needs. Currently there are complaints about this process from Social Development staff ("When we refer a youth to ISD, they are not prioritized," says a child-in-care social worker, and "I'm finding it harder to get services for my kids now through ISD than I did before ISD existed," says another).

We also hear complaints about ISD from professionals in other Departments ("Child Protection Services does extensive and comprehensive assessments of family situations but they are not sharing that information with ISD teams," says a professional working within the ISD system, and "Social Development has been playing a distant role in ISD," says a manager within ISD). In 2017, Manitoba enacted the *Protecting Children (Information Sharing) Act* to allow service providers to collaborate and better share critical information to protect the safety and well-being of children. This legislation allows government professionals and others who provide services to children in vulnerable situations such as those receiving child welfare or mental health services to collect, use and share personal information about these children and their parents or legal guardians without consent in the best interests of the child.¹⁸¹ Legislative amendments in New Brunswick were meant to allow for better information sharing among ISD Child and Youth Teams, yet barriers persist. This must change, in the best interests of children.

We also believe that all children in the child welfare system should be served by the Integrated Service Delivery system. Currently they are not. Our office is of the opinion that every child under a supervisory order, custody order or in guardianship should immediately be referred to a Child and Youth team under ISD. By legislating the need for an Integrated Service Delivery common plan for every child in care, as recommended in our 'We Are What We Live' report,¹⁸² the Department of Social Development will be able to change the work culture from one of siloed silence to one of collaboration and accountability. It would also be beneficial for the Department of Social Development to establish comprehensive child protection and child-in-care protocols for collaboration with all other Departments with which it interacts, under the guidance of Integrated Service Delivery.

MORE THAN A FILE

Ezra is a 14-year-old who remained in hospital for two months even though there was no medical need for him to be there; there simply wasn't a safe place for him to go. The Department of Social Development had legal custody of Ezra due to child protection concerns. He had been living in a group home but was brought to the hospital for psychiatric evaluation after making comments about self harm. A doctor at the hospital refused to discharge Ezra even though he no longer had any psychiatric or medical need to be there. The doctor refused because they felt that there was no plan in place, and the hospital team had determined that a foster home placement rather than a group home would be necessary, given Ezra's mental health. The Department of Social Development was refusing to plan for Ezra's return to community until he was discharged from the hospital, even though no stable housing situation had been secured. It was an impasse that led this young boy to remain in hospital for months, waiting.

When our Office became involved, the communication between the Department of Social Development and the Hospital had broken down completely. To end this state of limbo for Ezra, discussions took place, and the hospital psychiatric team crafted a list of suggestions for Ezra's care post-discharge. Ezra himself wrote a letter to the Department, expressing his needs. Soon after, a suitable community placement was set up. Individual treatment was arranged to be provided, family counselling would be introduced, and Ezra was enrolled in school.

This is not an isolated situation; we have been brought in to advocate in situations wherein a youth has spent 10 months in a hospital setting because of lack of foster care spaces and what we see as inflexibility in Social Development's position regarding housing situations.

Collaborative care plans

Children and youth in care require stability in placements, regular contact with social workers, and appropriate supports and resources for the primary caregiver, with all involved having a clear understanding of each child and youth's individual needs. Care plans should therefore be developed and carried out collaboratively with social workers, caregivers, family, children, *and other professionals*. This collaboration would be in the best interests of children and would ease the burden on any particular Department. It

was almost universally stated to us by social workers across the province that Department of Social Development professionals find that other government Departments have unrealistic expectations of Social Development and view care as the solution to many school or community problems. Social Development professionals also feel the pressure of other government Departments looking to them to organize and fund individualized residential services, which is not only difficult within budgetary constraints but also problematic in terms of expertise. As one manager told us: “We aren’t mental health professionals, but the health authority is telling us we need to set up a residential placement for a youth coming out of a psychiatric facility, and hire the mental health support workers – it is not in our area of expertise.”

All of this points to the need for multidisciplinary collaboration and accountability for each child and youth in government care. Multidisciplinary case management should occur after a child is brought into care. Care plans should be developed and carried out collaboratively with social workers and Integrated Service Delivery Child and Youth Teams. Furthermore, caregivers, family, youth, relevant professionals and community stakeholders should be involved in the care plans as much as possible. In 2020, Ontario released a multi-year strategy to redesign the child welfare system, intended to shift the focus from reactionary service delivery to enhanced community-based prevention and early intervention-focused services.¹⁸³ New Brunswick has an opportunity to emulate this goal and do it even better than Ontario, given the work done in this province already on integrated service delivery.

Utilizing the expertise of professionals beyond social workers

The Child Victims of Child Abuse and Neglect Protocols are a rare example of an interdisciplinary working group approach instigated by the Department of Social Development, but the actual process of that initiative is revealing of how the system does not work. One person from the Department of Social Development was tasked with organizing these updates. That person was exceptionally talented, but also exceptionally busy with other important work. The initiative stagnated for years and seems to have ultimately collapsed. It should be restarted, and community expertise must be engaged in collaboration. Community-based institutions play a very important role, particularly in neighborhoods where they provide a safe haven from stress or violence.

The role of the Child and Youth Advocate in the child welfare system

“I didn’t know about your office. They should teach more in school about our rights.”

A youth in care

“We don’t really inform youth about the Advocate’s office in any kind of systematic way, and no one has responsibility to make sure it happens.”

Department of Social Development Regional Supervisor

“Nobody talks to young people in care about your office.”

A child-in-care social worker

“...[E]nsure that an independent monitoring mechanism is in place... easily accessible to children, parents and those responsible for children without parental care.”¹⁸⁴

United Nations Guidelines for the Alternative Care of Children

The office of the Child and Youth Advocate is charged with legislated duties and responsibilities including: ensuring that the rights and interests of children and youths are protected; ensuring that the views of children and youths are heard and considered; ensuring that children and youths have access to services and that their complaints about those services receive appropriate attention; providing information and advice to the government, government agencies and communities about the availability, effectiveness and relevance of services to children and youths; and acting as an advocate for the rights and interests of children and youths generally. This mandate is established in law to ensure that vulnerable and often voiceless children have some recourse to protect their rights.

The Advocate’s governing legislation also provides a mandate to “inform the public about the needs and rights of children [and] youths... and make recommendations to the government or an authority about legislation, policies and practices respecting services to or the rights of children [and] youths.”¹⁸⁵ The report you are presently reading is part of this advocacy.

Although we have the legislated mandate to advocate for children and youth, the responsibility to advocate for children in government care falls to all those involved in the child welfare system. *Social workers, as with all professionals, must feel comfortable and emboldened to contact our office to advocate for children they serve.*

The Department of Social Development's Child in Care Program Practice Standards require: "When Assuming Responsibility for a Child in Care, the Social Worker takes on the role of advocate for the rights of the child in care."¹⁸⁶ This is a practice that must be more forcefully applied.

It is a very positive affirmation of the diligence of individual social workers when they come to our office for aid on behalf of children in care, as they increasingly have been. It is extremely disheartening, though, to see how seldom the Department itself comes to our office even for consultation. It is also extremely troubling to have heard from some social workers that they have been instructed not to raise issues with our office when children or youth have problems that the Department cannot apparently fix. Such an instruction would be a flagrant disregard for a provincial law. Obstructing, hindering or resisting the work of the Child and Youth Advocate is wholly unacceptable, a violation of the law under the *Child, Youth and Senior Advocate Act*,¹⁸⁷ and an action that constitutes a punishable offence under the *Provincial Offences Procedure Act*.¹⁸⁸ Beyond the legal requirement *not to obstruct* our Office's advocacy, however, there is a moral obligation to reach out to our office to *request* advocacy. This does occur, by professionals in social services as well as in the health, education, and justice systems. It is good practice.

Children and youth have a legal right to advocacy on their behalf from the Child and Youth Advocate's office. However, our mandate is broad and our resources are thin (our office is per capita the least funded of any Child and Youth Advocate's office in the country). Therefore, our outreach functions do not include visiting every child in foster care, group home or specialized placement. All children and youth in the system must be informed and continually reminded that they have an Advocate to turn to, and should proactively be connected with our office.

The revised Child in Care Program Practice Standards state: "When a child in care feels as though their voice and their rights are not being heard, they have a right to contact the Child, Youth and Senior Advocate's office."¹⁸⁹ This practice standard places a positive obligation on social workers to facilitate contact between a child or youth and our office. New Regulations in 2020 commendably place an obligation on kinship homes, specialized placements, foster homes, group homes and treatment centres to provide access to a phone and reasonable privacy to make calls to the Advocate.¹⁹⁰ What is needed now is assurance that every child and youth in care understands that the Advocate can help with a wide range of problems they may be facing. It would be helpful if the Department of Social Development's case management system were adapted to ensure that each case file includes a check that the role of the Child and Youth Advocate has been explained to the child or youth and connection to the Advocate has been facilitated.

RECOMMENDATION 11

The Department of Social Development's Practice Standards should be amended whereby social workers are encouraged to bring their own concerns about the system to the Child and Youth Advocate.

RECOMMENDATION 12

The role of the Child and Youth Advocate should be included in all relevant legislation, regulations, practice standards and training materials for social workers, group home operators, and foster care providers.

DECISION-MAKING IN THE BEST INTERESTS OF CHILDREN

"There's a lot of waiting around to hear back about stuff. I mostly just give up."

A youth in care

The guiding principle of child welfare law in this province is that "a child's best interests should be included in the assessment, planning and decision-making process surrounding the permanent plans for the child."¹⁹¹ Under our province's *Family Services Act*, the "best interests of the child" must take into consideration: the mental, emotional and physical health of the child and their need for appropriate care or treatment, or both; the views and preferences of the child, where such views and preferences can be reasonably ascertained; the effect upon the child of any disruption of the child's sense of continuity; the love, affection and ties that exist between the child and each person to whom the child's custody is entrusted, each person to whom access to the child is granted and, where appropriate, each sibling of the child and, where appropriate, each

grandparent of the child; the merits of any plan proposed by the Minister under which they would be caring for the child, in comparison with the merits of the child returning to or remaining with his parents; the need to provide a secure environment that would permit the child to become a useful and productive member of society through the achievement of their full potential according to his individual capacity; and the child's cultural and religious heritage.¹⁹²

Consistently involving children and youth in planning for their lives

“Children have... a right to be heard in the course of, and to participate in, the processes that lead to decisions that affect them and that they are capable of understanding...”

New Brunswick Family Services Act, preamble

“Where the child is in care under a guardianship agreement the Minister shall consider any wishes that the child expresses with regard to any placement or planning the Minister proposes.”

New Brunswick Family Services Act, section 45(3)(c)

“I don't feel like in the end anyone will listen”

A youth in care

We wonder how improvements can come to a system when the clients are ignored. It strikes us as strange that the very people affected are the last to be asked, if they are asked at all.

Children and youth have a right to have their best interests be a primary consideration in all actions concerning them.¹⁹³ The United Nations *Convention on the Rights of the Child* specifically states that this right applies to social welfare institutions and administrative authorities. Some children and youth tell us that their lives have improved in care, but it is very rare for one to tell us that they feel like they are the main focus of all decisions. They mostly feel that the system has priorities other than putting them first.

Children and youth also have a right to make their views known and be given due weight in decisions about them.¹⁹⁴ Yet they tell us they do not feel fully engaged in the development of their care plans, or that their views are taken as primary considerations. They tell us that they feel meetings are scheduled without considering them or their

ability to attend. They said that the purposes of meetings are not always clearly explained to them, so they can't meaningfully participate. And they tell us that the outcomes of meetings don't often reflect what they wanted or felt they needed. A social worker said the same: "Meetings are in boring boardrooms with people speaking boring jargon. Young people hate it. And they definitely don't feel comfortable enough to speak in those places."

Children and youth in care are constantly having to meet new people who are involved in decisions about their lives. They have lost connections with supportive adults who were in their lives before care. For many of them, so many adults come and go in their lives that they find it difficult to trust the worth of building new relationships. There are, nonetheless, many examples of youth being engaged within the child welfare system. For example, in a process called a Permanency Planning Committee, some Social Development offices prepare the young person before meetings and find that the experience is positive for them. The youth in these meetings can be involved in reviewing the care plan and discussing important decisions to be made.

Engagement with their care plans is a perfect opportunity for children and youth to be heard and to be actively involved in the control of their present and future lives. Care plans must truly be 'living documents,' active plans, with both short-term and long-term goals as well as clearly identified strategies, clear outcomes, and accountability measures to track progress. Most importantly, care plans must be viewed as comprehensive planning tools, not simple administrative exercises. There should be a regular process to review care plan standards against human rights norms and best practices nationally and internationally. These plans must of course be culturally appropriate for Indigenous children, as well as for ethnic minority children. Care plans should also be effectively audited for quality. There should be accountability through public reporting of adherence to standards. Presently there is not.

Children and youth in the child welfare system have emerged from lives of abuse and neglect. They already, understandably, have difficulty trusting adults. They need to absolutely know that they have direct and immediate access to their social worker, and that their social worker will listen and act. These children also need to feel they have some control over their lives. The most common advice for the system from youth in care is that they should be listened to and be able to participate in decisions. Almost all of them told us that.

When a child is in the guardianship care of the Minister of Social Development, the Minister must "consider any wishes that the child expresses with regard to any placement or planning the Minister proposes."¹⁹⁵ Yet there is no question that children and youth in the child welfare system do not feel they are adequately involved in the planning and decision-making for their lives. That lack of input is one of the biggest grievances they have. The United Nations *Convention on the Rights of the Child* insists

that a child or youth must be given the opportunity to participate before any decisions affecting the child are made and that the child's views must be given due weight in accordance with the child's age and maturity. Each child and youth must be engaged through honest and respectful dialogue about how and why decisions affecting them are made. New Brunswick's *Family Services Act* includes this obligation for children in care under the guardianship of the Minister of Social Development.¹⁹⁶ A fair, large and liberal interpretation of that provision, in accordance with our Province's *Interpretation Act*,¹⁹⁷ requires social workers to: (1) explain to the child or youth, in understandable terms, options for planning; (2) engage the child or youth with real commitment to determine their opinions and wishes; (3) seriously and comprehensively consider the input of the child or youth; and (4) explain the reasons for the ultimate decision to the child or youth. Within that entire process, the social worker, their supervisor and anyone else involved in the decision must guide their decision-making in accordance with the best interests of the child.

We often find that children and youth are not provided with information about the processes used to make decisions about them. Children and youth in care should expect to be told what they are entitled to, how they will be treated, and what their rights are. Actions must be taken to *ensure* that a child who is capable of forming their own views about matters affecting them is able to express those views freely and safely.¹⁹⁸ There must also be a process to *show evidence* that children's views have been solicited and considered. The Department of Social Development has not developed adequate and accessible mechanisms for children's or youths' opinions, concerns and complaints to be heard and acted upon.

Creating child-friendly mechanisms to ensure complaints are heard and acted upon

“These kids don’t know how to make complaints. And even if they do, they think there is no point because the people answering them are the same people doing the stuff the kids are complaining about.”

A group home worker

“Children in care should have access to a known, effective, and impartial mechanism whereby they can notify complaints or concerns regarding their treatment or conditions of placement. Such mechanisms should include initial consultation, feedback, implementation and further consultation. Young people with previous care experience should be involved in this process, due weight

being given to their opinions. This process should be conducted by competent persons trained to work with children and young people.”

***United Nations Guidelines for the Alternative Care of Children*¹⁹⁹**

It is a principle of the Rule of Law that anyone negatively affected by a public servant's decision should have a right to be heard and that there must be accessible and effective means to resolve disputes and obtain remedies.²⁰⁰ Very importantly, children and youth in care must know: who has the discretion to make each decision; who makes the final determination; what the time frame involved in the decision-making; what the appeal process is; and who they can turn to for help in challenging decisions. The province's Child in Care Program Practice Standards include a process for a youth in care to request a review of a "significant life decision of their continued care services," but there is no general complaint function process.

Children and youth tell us they often do not feel safe to complain about negative aspects of their care. There are no sufficiently adequate and accessible mechanisms for children's or youth's opinions, concerns and complaints to be heard and acted upon. Moreover, the Department of Social Development does not track complaints from children and youth in their care. The Department does not even know how many complaints have been submitted from group homes or foster homes, let alone the nature of those complaints. The Department needs to create a system to track complaints province-wide, to inform system improvements.

Children and youth in such vulnerable circumstances need to know they have the right to complain, that it's okay to complain, and that there is a simple process in place for them to do so. They need to be able to express concerns about the services they receive or believe they should be receiving and know that their concerns will be carefully considered and responded to in a timely and appropriate manner. They have to be able to express their concerns *in a way that works for them*, not in a way that is convenient for the system.

The principle that the best interests of the child guide all decisions made concerning children in care requires that not only must the result of such decisions be in the best interests of children, but the *process* of the decision-making must be fair. The young people in the child welfare system are beholden to administrative decision-making, but such decision-making must legally be in accordance with the principles of administrative fairness. Decision-makers must avoid bias in their decisions – this is a fundamental principle of the Rule of Law.²⁰¹ Child in care social workers are acting with parental responsibility with the best interests of the child as a primary consideration. They are also employees of a government Department. There can be a perceived conflict of interest between parental obligations to the child and duties to one's employer in this

situation. Certainly, youth have pointed out this conflict to us – they often perceive social workers as working for the government and not for them.

There are situations wherein this potential conflict of interest becomes more apparent. For example, when a young person is suspended from school, does the social worker appeal that decision of the school? Under the *Education Act* only a parent or legal guardian can appeal a student's suspension.²⁰² But is a government employee likely to formally challenge the decision of another government employee? Perhaps at times yes, but our office has often seen situations where apparently the answer is no.

Another aspect of the potential conflict of interest problem is that in some situations we see how if there is an appeal of a decision by a representative of the Department of Social Development to deny a request by a child or youth, it is the same decision-makers involved in reviewing their own decision. The right to an impartial decision necessitates that there is no apparent conflict of interest or bias on the part of the decision-maker. For example, surely a youth's social worker should not be making decisions about whether that youth should qualify for post-guardianship services. That situation raises perceived conflict of interest and bias.

As another example, when a person is forced by government to evacuate their place of residence and move to a new one, this violates their rights to liberty and security of the person. Such actions taken when a social worker moves a child from one group home to another, for example, must adhere to the principles of fundamental justice. As stated by the federal Department of Justice: "The principles of fundamental justice incorporate *at least* the requirements of the common law duty of procedural fairness."²⁰³ *The administrative fairness problem in child welfare as we view it is that decision-making processes have no written conflict of interest policy to guide a social worker's, foster parent's or group home worker's actions.* In fact, the processes of decisions made about children's lives in care in general have few structured controls. There needs to be a different, objective process for decision-making and reconsideration of decisions, and the process must be grounded in law. These issues should be resolved according to legal guidelines, not by arbitrary decision-making by those with power over children's lives.²⁰⁴

It is also a principle of the Rule of Law that public officials must exercise their powers fairly, reasonably and in good faith.²⁰⁵ This means that children and youth must be given a full and fair opportunity to present their case and that an impartial decision-maker must be able to clearly communicate a rational connection between the evidence presented and the conclusions reached. Furthermore, decisions must also always accord with legitimate expectations of how the process will unfold. These principles apply to government-sanctioned decisions. It is only reasonable to assume that such principles should also apply to non-governmental individuals (such as group home staff)

making decisions affecting children when government has contracted for service provision. Government cannot contract out of its obligations.

What we see is that children and youth in care quickly become distrusting of the system and give up trying to make their concerns heard. It was suggested to us by some professionals that it would be best for youth to directly call the office of the Child and Youth Advocate with complaints about their care, so that the Advocate can ensure that the social worker involved hears the complaint and acts on it in a very timely manner. However, we believe that a more appropriate response to the problem would be for the Department of Social Development to create strong internal complaint processes. The Department should also create a Complaint Management Review Board, to discuss complaints on a quarterly basis and determine areas for improvement in the system. The Child and Youth Advocate should participate in these meetings.

RECOMMENDATION 13

The Department of Social Development should create a statutory requirement for an accessible child-centered conflict resolution process, including a provision that if a child or youth makes a complaint about a decision or service provision and is not satisfied with the results of the reasons provided in answer to the complaint, they should have recourse to an independent administrative review process.

MORE THAN A FILE

Sisters in a foster placement in New Brunswick had difficulty convincing their social worker of the behaviour of their foster care providers, including claims that the older sister was called “stupid” and “a whore”. The younger sister got a video of one of the foster care providers pinning her older sister against a wall, because they felt they needed this evidence to show the social worker. They were then immediately moved to a new placement. This was an extreme situation, but it serves as a reminder as to why children and youth in the child welfare system must be heard and all accusations and complaints must be thoroughly reviewed. Almost invariably, foster parents are deeply caring and persistently giving people who do wonderful things for children’s lives. Situations do occur, though,

where children must be taken from foster providers. Our office has seen terrible cases, such as open, infected wounds on small children's knuckles from being forced by foster care providers to do push-ups on gravel as a punishment. These are outlier situations, but the child welfare system must be extremely vigilant and have effective means of hearing from each child and youth in care.

DATA COLLECTION AND ANALYSIS

It is a responsibility of the appropriate level of government to ensure the development and implementation of coordinated policies regarding formal and informal care for all children who are without parental care. Such policies should be based on sound information and statistical data.²⁰⁶

United Nations Guidelines for the Alternative Care of Children

“Social Development is like an ostrich – afraid of facts.”

Social work professional

“With our data collection capability, we're just trying to keep the lights on.”

Professional at the Department of Social Development

The Department of Social Development has no effective means of tracking the lives of children and youth under its care. The Department was incapable of giving us any data from our requests, even though, in the words of a Department representative, “none of these questions are unreasonable, it is all stuff we should have.”

The Minister of Social Development is acting with parental authority and responsibilities under law for these children. For the Minister and the Department to know what kind of parenting is being done, information is necessary. Without available comprehensive data on children and youth, government has no way of knowing how it is doing and without making data available, it has no way of showing the public that it is spending citizens' money for services that are in the best interests of these children. The legitimacy of government services in a democracy depends on the fidelity of the

decision-making process. The decisions themselves do not always need to meet with general approval, but the way decisions are made must be defensible. Without being able to collect robust information with which to make decisions, government cannot even show that decisions are being made based on evidence of what works. This is not a defensible process.

The Department of Social Development could not provide even a list of statistics tracked by the Department in relation to child welfare services. It took more than a year, and it was only after we provided the Department with a draft of this report that we got any data. That data is listed in Appendix II of this report. It represents a small proportion of the data requested. When we began this review of child welfare services, we did not fully understand the technological difficulties and human resource deficiencies that the Department is under. There is, without question, an extreme deficit in data collection in child welfare services. The Department cannot capture robust statistics on the supports for and outcomes of children in its care. A former member of management at the Department of Social Development stated, “Don’t quote me on this in a public report, but when our case management system was developed, being able to click on something was revolutionary.” We are quoting that in this public report, because we believe it reflects a reflexive position that has pervaded the Department for too long: the urge to contain problems instead of addressing them. The outdated technology of the case management system should not be a secret. Indeed, it is not a secret – everyone working with the technology knows how outdated it is. Trying to keep this fact from the public does absolutely nothing to better the lives of children. It does the opposite.

Throughout this report we have called attention to important facts that the Department simply does not know about children and youth in its care. This includes how many are on medication, how many are living at a homeless shelter instead of a group home or foster placement, how many have been arrested or incarcerated, how often they go missing from group homes, or how many have been in hospital. We recognize that systems are often complex, but any parent would know these things about their children, and we expect the Minister as legal parent to know these things as well. The public needs to know the outcomes of the children their government takes into care on their behalf. How many finish high school? How many go on to post-secondary education and job training? How many are employed? How many have children while in government care? How many stay in the province? How many are on social assistance? How many get help for addictions and mental health? How many are victims of crime? How many commit crimes themselves? How many receive scholarships for post-secondary education? How many leave the system at age sixteen? Where do they go when they age out of the child welfare system, and what happens to them?

When we have statistics, we see problems more quickly. The data on children and youth living in poverty, for example, that is found in the Advocate's Child Rights Indicators Framework,²⁰⁷ makes abstract problems more visible. The province needs to measure performance. And it needs to act on what it measures. One important caveat is that the right things must be measured. There is some trepidation, for example, among group home service providers that staff will have to collect extensive data, taking their time away from caring for children and youth ("Already valuable scarce staffing resources are being spent on collecting data like fridge temperatures," noted one professional).

The Department should conduct comprehensive assessments for each youth leaving care, and collect aggregate data. The system should be able to measure safety, health, educational achievement, healthy personal connections, and *how children and youth feel*. It should track data on what happens to youth after they age out of care, in terms of post-secondary education, training, employment and housing stability. The system needs to track data disaggregated by ethnicity, gender and sexual orientation to hold systems accountable for equity in outcomes for all youth.

The case management system is not built for adequate data collection. The Auditor General review of group homes and specialized placements found that the functionality of the NB Families system for case planning and recording critical information has significant functional limitations. These limitations decrease both the effectiveness and efficiency of Department personnel in planning and monitoring child-in-care services."²⁰⁸

There are also not enough data personnel at the Department. If you want to do evidence-based work, you need to have the structure to collect the evidence. The Department of Social Development has three data analysts for a billion-dollar budget. There is therefore a lack of monitoring of the whole child welfare system. As a professional in a different government Department commented: "Social Development apparently doesn't track many key performance indicators for children in care or do much with the ones it does track." This perhaps seems slightly harsh, but it is a commonly held opinion among people we spoke with. An even harsher assessment came to us in this quote from a former high-level manager in New Brunswick government: "The Department of Social Development is a culture of secrecy that hides behind the excuse of confidentiality." This is unquestionably an inflammatory comment. Whether it reflects the truth or not, it reflects a widespread perception held by many professionals we have spoken with. The word "secrecy" was used by dozens of people, all of them professionals in the field, during our review, and at the very least it raises the concern that there is a negative perception held by many about the Department's confidentiality stances. It is a perception that needs to be addressed and changed. We suggest that part of the way to change the perception is to find ways to better measure and report on

what is actually being done to help children. We have begun to see attention being paid to the data problem at the Department and we encourage this.

The data deficit is not simply a Social Development problem. As one expert noted, “how do you do Integrated Service Delivery if you silo your data?” The child welfare system as a whole (not only child-in-care services but also child protection services, youth engagement services, and other programs) needs to work collaboratively with other government Departments. Data sharing is a key to this collaboration.

Beyond the unfulfilled data requests already mentioned in this report, we asked for the following statistics, each for the past five years. The Department does not have that data tracked year over year. The Department never provided any of it.

- The number of children and youth who, following the end of a protective care or custody agreement/order, have become subject to a new protective care or custody agreement/order.
- The number of youth aged 16 and over who refuse protection services.
- The number of children and youth who are adopted out of temporary care (custody) or permanent care (guardianship).
- The number of children and youth in temporary care (custody) who are returned to their parents.
- The average duration of custody agreement/order.
- The number of cases in which custody agreement/order maximums are reached.
- The average duration of guardianship agreement/order.
- The average number of placements for a child/youth in temporary or permanent care. (moves to/from group homes, foster care placements and/or kinship or other placements).
- How many complaints are submitted from children in group homes per year.
- How many complaints are submitted from children in foster homes per year.

A new case management system is needed. The best such system, in the view of the Advocate, would be an integrated data system created through collaboration between the Departments of Social Development, Education and Early Childhood Development, Health, and Justice & Public Safety, that links information to track, evaluate, and provide an effective and integrated set of services to children and youth in care across these systems. At a minimum, however, a new system must be developed for the child welfare system within the Department of Social Development.

RECOMMENDATION 14

The Department of Social Development should invest in a new case management system that, at a minimum, collects comprehensive information pertinent to the lives, development and rights of children and youth in the child welfare system.

Data Collaboration

Many, if not most, children in the child welfare system have experiences across multiple systems. By that we mean they may have files with Social Development, the education system, the youth justice system, and the health and mental health systems. However, there is presently no integrated data system that links information across these services while maintaining client confidentiality. Effective service provision in child welfare requires outreach to and collaboration with multiple systems. It also requires information sharing in the best interests of children.

Information sharing is obviously hampered by a lack of information collection. The Children in Care Services Regulation pursuant to the *Family Services Act* required that the Minister of Social Development maintain a “case record” for each child in care.²⁰⁹ The regulation was repealed. It was replaced by a Children’s Services and Resources regulation that did not require the Minister to maintain such a case record.²¹⁰ It might be said that these case files existed as solitary (and in the view of some social workers, shallow) records of the lives of children in care, and the information in them was not collected in any manageable and meaningful way to measure the effectiveness of the system as a whole. However, if it were possible to aggregate information from these records in the case management system it would at least have been a good start, as these files included, among other information, reports of all medical and dental examinations, mental health reports, school records and reports, and the child’s placement history. The new regulation requires that various caregivers (in kinship placements, ‘child specific placements’, foster homes, group homes and treatment centres) maintain a case record for each child. But there is no equivalent obligation on the Department itself to maintain such records. Moreover, the case records kept by contracted service providers only need to include medical and dental information, report cards, the responsibilities of the caregiver and the typical daily routine of the child – a great deal of information about the child is not included. These case records are not fulsome, but more problematically they do not contribute to any data collection or sharing by the Department. The obligation of the Minister to keep a case record at all seems to have disappeared, and it should be reinstated.

COLLECTIVE YOUTH VOICE IN THE CHILD WELFARE SYSTEM – THE NEW BRUNSWICK YOUTH IN CARE NETWORK AND THE GOVERNMENT’S OBLIGATION TO HEAR FROM ALL CHILDREN IN THEIR CARE

“I believe that young people who are placed in different homes or foster families should be able to talk to each other about their situations, to be able to go to the gym together and things like that.”

A youth in care

“Listen to us. We are not always wrong. We are right a lot of the time. We’re not stupid.”

Eighteen-year-old going to university

“We need to talk about what’s bothering us.”

A youth in care

Children and youth have rights to freedom of expression²¹¹ and association.²¹² Yet these rights are somewhat hollow if not facilitated. The New Brunswick Youth in Care Network, an association of current and former youth in government care, has been a formidable force for youth voice since 2010.²¹³ The Network “seeks to develop a sense of belonging and a spirit of leadership in youth who find themselves in the provincial care system” and it has positively impacted the functioning of the child welfare system by amplifying the voices of its members, and bringing their opinions to decision-makers in government. The Network’s report “A Long Road Home” continues to be powerful reading, and its recommendations still resonate.²¹⁴ Government officially responded to that report,²¹⁵ and the Network continues to advocate for progressive implementation of its recommendations.

Since that report, the Youth in Care Network has provided advice and consultation on a number of matters affecting children and youth in care.

As our review of the child welfare system was finalized, the New Brunswick Youth in Care Network released a report about the 2019 Youth in Care Hearings.²¹⁶ We look forward to government’s responses to the recommendations made in that report, and we will certainly advocate for issues raised in that report to be given continued attention.

The report, titled *Repaving the Long Road Home*, is driven by the voices and concerns of youth in care and contains fifteen recommendations to better the lives of children and youth in care. The Department of Social Development has extended their agreement with Partners for Youth Inc. to fund the Youth in Care Network for another five years. We would hope that the Department would continue to provide funding for the Network in perpetuity and to respond to its recommendations fulsomely.

We will also continue to advocate for the New Brunswick Youth in Care Network itself. The Youth in Care Network has many excellent programs. A challenge, though, is that there persists a lack of awareness of the Network among youth in care. Some youth we spoke with had heard of the Network but weren't sure what it is. Most of the youth we spoke to expressed interest in participating in the Network after we had explained it to them. We contacted some social workers on youths' behalf when requested to. We met a great many youth who were interested in the NB Youth in Care Network and said they would contact its Coordinator. It appears that not many did. Yet their interest was genuine. We conclude that these youth need much more support to gain the strength to try something new. The Network currently has only one person paid to coordinate its efforts and promote its functions. We firmly believe that youth have an interest in joining the Network but there are barriers for youth to access the Network and youth need the process to be facilitated for them by their social workers and other service providers.

The New Brunswick Youth in Care Network needs the support of social workers, foster care providers and group home staff. More promotion of the Network directly to youth in care is required – promotion by the Department of Social Development. The Department's 'Child in Care Program Practice Standards' state that "Social workers need to be familiar with the goals and objectives of the Youth in Care Network and support participation by children in care in New Brunswick."²¹⁷ This requirement has not been sufficient to build the Network to the membership level it should have. Youth need to know what the Network can do for them and what they can do in it, and the obligation for social workers only to "support participation" is not enough. We have been informed that there are only 30 core members of the Network, even though there are more than one thousand children and youth in care, but the Network's events and programs reach many more youth than the core membership; the Network also provides supports for those who have "aged out" of government care.

An anglophone region of Social Development told us they are "promoting, promoting and promoting" the Youth in Care Network but find that youth are "not taking it up." Some youth have told them that they can't identify with the discourse of the Youth in Care Network. Others have said they don't want to be identified as kids in care. One region told us that older youth seemed to become more interested in it as they aged out of care. One Regional Social Development Supervisor stated that "it is always the same young people who participate." Francophone regions of Social Development believe

that the Network is more interesting for anglophone young people of the Fredericton, Moncton and Saint John urban areas. They see a language barrier for francophone youth and a geographic barrier for rural youth. One Regional Office suggested that a francophone liaison officer would ensure continuity and give a face to the network.

One Regional Office of Social Development informed us that youth in temporary care are not told about or involved with the Network because the Department believes that parents must give their consent for youth to participate, therefore making the process too complicated. If a parent does not consent to a youth participating in a Youth in Care Network when the youth may be in temporary care for two years or more, and yet the Department feels it cannot act without parental approval, one must question whether the Department's statutory obligation to provide care for the child that will meet their emotional, social and recreational needs to the extent the parent cannot is being met.²¹⁸

RECOMMENDATION 15

The Department of Social Development should institute mandatory education sessions on the benefits of the New Brunswick Youth in Care Network to all child protection workers, child in care workers and youth engagement services workers. Group homes and foster homes should be required by Practice Standards to promote the New Brunswick Youth in Care Network to youth in their residences, and a protocol should be developed with the Department of Social Development to allow the Coordinator for the New Brunswick Youth in Care Network access to visit youth in group homes and foster homes. The Department of Social Development should also fund the hiring of a Francophone coordinator of the New Brunswick Youth in Care Network to work with the current Coordinator.

The Department of Social Development should also create a full-time Youth Voice Coordinator position within the Department to promote the Network and other avenues for the opinions of youth to be heard and considered in the system.

THE RIGHTS OF CHILDREN IN A CHILD-CENTRED SYSTEM

In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

United Nations Convention on the Rights of the Child

It is recognized that the rights of children, families and individuals must be guaranteed by the rule of law...

New Brunswick Family Services Act, preamble

Training should be provided to all carers on the rights of children without parental care.²¹⁹

United Nations Guidelines for the Alternative Care of Children

“Children are entitled, in every instance where they have rights or freedoms which may be affected by this Act, to be informed as to what those rights and freedoms are...”

New Brunswick Family Services Act, preamble

Child-centred practice requires child rights by design, meaning that all services to children must be built from the perspective of the child’s rights and needs. It is not difficult to find problems in the current child welfare system. For example: the scope of mandatory reporting requirements for child abuse and neglect are little-understood and often ignored; the school system is far from being a system that teaches children about their rights, including their right to be free from abuse or neglect; the application of child protection intervention seems inconsistent around the province; concerns are expressed regarding the delay in having matters heard by courts and the shortage of lawyers and judges who have a specialised understanding of and sensitivity to child rights and developmental needs; and children and youth taken into care have their rights violated without knowing they have recourse to remedies. At the heart of correcting these and other problems in the child welfare system is the need to ensure that the law reflects human rights.

Child rights are human rights. Children have rights that adults have, and they also have special rights due to their inherent vulnerability. As proclaimed in our province's governing child welfare legislation, the New Brunswick *Family Services Act*: "children have basic rights and fundamental freedoms no less than those of adults" and children also have "a right to special safeguards and assistance in the preservation of those rights and freedoms."²²⁰ Within our domestic legal systems, New Brunswick has, as does all of Canada, obligations due to the ratification of the United Nations *Convention on the Rights of the Child*. The distressing fact in New Brunswick is that the *Convention on the Rights of the Child* very often seems remote from the realities of child welfare in practice, despite the fact that many of its provisions are of direct and crucial relevance. For example, Article 3 provides that "in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."²²¹ This provision coincides with provisions in New Brunswick's *Family Services Act*, which provides in its Preamble that "the best interests and safety of the child must always prevail when there is a conflict between risk to the child and the preservation of the family unit" and that "a child's best interests should be included in the assessment, planning and decision-making process surrounding the permanent plans for the child." Through our experience advocating in the child welfare system, we must conclude that these domestic legal provisions have not often enough been reflected in practice.

These provisions in the *Convention on the Rights of the Child* come with legal obligations. Implementation of this treaty requires the amendment of New Brunswick law and, perhaps even more importantly, policies and *practices* that comply with the rights of the child. As stated forcefully by Tom Bingham, former Senior Law Lord of the United Kingdom: "The rule of law requires compliance by the state with its obligations in international law."²²² The child welfare system, like all systems that govern and provide services for children, must therefore take a child rights approach. This means that everyone tasked with developing and implementing policies that impact children must use the standards set by international human rights law to guide their actions. A child-centred system must apply child rights standards and principles from the UN *Convention on the Rights of the Child*, the Canadian *Charter of Rights and Freedoms* and various international and domestic human rights instruments to guide policies and programs.

Law must play a foundational role in determining how professionals in various disciplines working to protect children should interact with each other. The Child and Youth Advocate's report on child welfare legislation, legal processes and court processes – *We Are What We Live* – attempts to provide guidance to government to solve these problems. The report you are reading now cannot avoid touching upon

many of these matters also, given the centrality of legislation, regulations, policies and practice standards in the lives of children who have suffered abuse and neglect.

We are finally seeing a shift in the language of the law, moving away from terminology like "custody" and "access", which reflect an era in Canada's past in which children were legally chattel – the property of the head of the household. This is part of an overall shift toward acknowledgement of, and respect for, the human rights of children. We have come a very long way from the period in which there were no protections in law for children, prohibiting them being abused and neglected. Criminal law and child protection law now provide those basic legal protections. Nevertheless, we remain a long way from a time in which the human rights of children are fully respected. A principle of the Rule of Law is that the law must provide adequate protection of fundamental human rights. New Brunswick's mix of legislation, regulations, policies and practice standards does not provide a coherent application of the human rights of children. For this reason, we have recommended that the United Nations *Convention on the Rights of the Child* be incorporated in the Province's child welfare legislation.

What is also essential is that everyone tasked with caring for these children and youth also understand these rights. To that end, a Child Rights Impact Assessment is an effective tool to examine potential positive and negative impacts on children's rights in terms of any decision made about them.²²³ The essential purpose of a Child Rights Impact Assessment process is to bring children's issues to the forefront of government decision-making and ensure adherence to human rights standards. This includes legislative decisions, policy decisions, budget decisions, practice standard decisions, and even day-to-day decisions by civil servants such as social workers in the child welfare system. The UN Committee charged with providing official guidance on the *Convention on the Rights of the Child* has stated that Child Rights Impact Assessments are a necessary mechanism for ensuring that the 'best interests of the child' principle is upheld in decision-making.²²⁴ A Child Rights Impact Assessment is a tool to guide all decision-making. There is a role, of course, for efficiency-improving processes used by government Departments, such as Lean Six Sigma, but efficiency must be balanced with effectiveness. One group home professional stated to us: "Lean Six Sigma is great if you are making widgets on a factory line." This is a telling remark. While we do not deny that such managerial efficiency tools have a place in the child welfare system, the effectiveness of that system must be measured by actual the impact on children's lives.

The New Brunswick government admirably adopted a Child Rights Impact Assessment process for certain policy, regulation and legislation changes through the Memorandum to Executive Council process, but the on-the-ground decisions and actions by frontline service providers lack such guidance. To help these social workers address complicated problems, they should have a Child Rights Impact Assessment tool to guide their actions, to ensure that all children's rights are being upheld in all procedures and decision-making.

It is also important to recognize that children and youth have a right to know their rights.²²⁵ Awareness of rights is essential for these children and youth who have come out of abuse and neglect and have been thrown into a situation of instability and vulnerability. And yet we rarely find any awareness among children and youth of their rights. As one youth in care told us: “I only heard about the Advocate when I was arrested and put in custody.”

Youth have many rights beyond those in the criminal justice system. As stated by Lord Bingham, “If we are to claim the rights which the civil (that is, non-criminal) law gives us, or to perform the obligations which it imposes on us, it is important to know what our rights or obligations are. Otherwise, we cannot claim the rights or perform the obligations.”²²⁶ In a situation we do not often encounter, one youth told us about the power of knowledge of rights. She said: “I did school projects on the rights of children, and that’s how I learned that what was going on in my foster home was not right. My social worker understood and moved me to a new home.”

A ‘rights in care’ guide written in child-friendly language, to accompany the Department of Social Development’s revised practice standards, has been developed by the Youth in Care Network (the ‘Right to Know for Child in Care Handbook’). This is a laudable exercise. The Department of Social Development’s Child in Care Program Practice Standards, updated in 2018, contain the following provision, “When Assuming Responsibility for a Child in Care, the Social Worker: reviews the Right to know for Child in Care handbook with the child over 12 y.o. within 30 days of being assigned the case and yearly subsequently to ensure the child understands the information contained within the handbook (handbook to come).”²²⁷ However, while it was completed by the Youth in Care Network more than a year ago, it has still not received final approval within the Department of Social Development, and therefore does not form part of the practice standards guiding the work of child-in-care social workers.

This handbook is vitally important. We see excellent guides on the rights of youth in care in other places around the world, easily available online for anyone to access.²²⁸ Moreover, we know that in provinces such as British Columbia, children and youth are given age-appropriate resources to explain their rights immediately upon being taken into protective care. In a truly child-centred system it would have been completed as the first task of revising practice standards. Instead, it was the last. This is a reflection of a backwards approach to child welfare.

If a system is to be designed with the best interests of children in mind, it must always begin by considering the system through the experiences of children. We see repeatedly how organizations and systems invest in mistakes, because they have not taken the child’s perspective as the guide. In a child-centred system, the rights of the

child are the mark of legitimacy of actions. It is therefore incumbent upon everyone working in the service of children in care to understand and act upon those rights.

It is also imperative to include rights in child welfare legislation. Beyond the importance of including the general human rights provisions of the *Convention on the Rights of the Child*, legislated protections should further include specific legal rights pertinent to lives in government care, as we see in recent Ontario legislation.²²⁹ These should include, for example, the following legal rights: to be informed of complaint procedures; to be informed of the rules governing day-to-day operation of residential care, including disciplinary procedures; to speak in private with and receive visits from members of the Child and Youth Advocate's office; to personal liberty, including reasonable privacy and possession of personal property; to participate in activities of their choice related to their creed, community identity and cultural identity; to participate in the development of their individual plan of care and in any changes made to it; to have access to food that is of good quality and appropriate for the child or young person, including meals that are well balanced; to not be separated from siblings unless in their best interests; to maintain contact with extended family; and to receive an education that corresponds to their aptitudes and abilities, in a community setting whenever possible. We hold out some hope for the pending new child welfare legislation being put forward by the Department of Social Development, but we are not wholly optimistic about it. We have not been afforded the opportunity to view any version of it as it has been developed, and we have reservations about it. In response to a draft version of this report, the Department of Social Development replied to our suggestion that new child welfare legislation should be founded on child rights, by replying only that "The new child welfare legislation currently under development is child-centred." It is our strongly held view that legislation *cannot* be child-centred if it is not founded on child rights. The Department of Social Development to date has not shown fulsome willingness to engage in a comprehensive understanding of human rights of children and youth in care.



PART 6.

**ADDRESSING THE
VULNERABILITIES AND
SUPPORTING THE
STRENGTHS OF CHILDREN
AND YOUTH IN CARE**

TRAUMA-INFORMED CARE

“Sometimes I don’t know why I do some of the things I do. It’s hard, because I feel like everyone is against me. I don’t understand myself so I guess no one else will either.”

A youth in care

“All of our trauma training has been surface.”

A child-in-care social worker

Childhood experiences impact us throughout our lives. Children’s experiences interact with their genetics to determine how resilient or vulnerable to adversity they may be. Those with severe adversity in early years are at heightened risk of developmental disruptions that lead to lifelong impairments in physical, emotional and mental health.²³⁰ When children “have not had the life experiences to teach them that traumatic experiences are an exception and not the rule,” they are not as well-equipped as other children to cope with trauma.²³¹

‘Care’ in the child welfare system, what is often called “the care system,” should mean *care* at the highest attainable level – delivering meaningful guidance and protection to children coming from abused and neglected backgrounds requires great skill, and resources to support caregivers. Youth we spoke with said that when coming into the care system they suddenly did not feel connected to any adults who *cared for them*. In this system, professionals need to understand the science of child development and trauma, and the system needs to provide the necessary supports for this understanding.

It is terrible to see how often children blame themselves for what has happened to them – as if they were responsible for being separated from their parents. There is a critical need for effective practices to address the trauma, loss and grief that these children have experienced. Children and youth in government care are dealing with the continuing effects of adverse childhood experiences. Growing up facing extreme adversity creates risk for the normal maturation of brain regions associated with learning, memory, mood, and stress reaction.²³² Suffering serious maltreatment in childhood can cause irritability in the brain’s limbic system, which tends to produce chronic unhappiness, aggression and violence toward oneself or others.²³³ When a child has no certainty that family connections will be reformed, longing persists and can inhibit a young person’s emotional availability for new experiences and positive relationships.²³⁴ Conversely, supportive parenting has been shown to mitigate some of the adverse hormonal changes that follow childhood adversity.²³⁵

It is imperative to train *and equip* practitioners to understand *and address* the role that trauma plays in young people's development. Children and youth in care must be guided, to help them understand their experiences and develop effective strategies for healing. The people interacting with these children and youth on a daily basis therefore need *comprehensive* training in childhood development and trauma-informed approaches. Then they will be able to recognize, for example, that trauma can prompt substance abuse as a form of self-medication and can work to equip youth with alternative coping mechanisms. They will be able to actively engage children and youth in processing and talking through moments of 'hot cognition,' and provide space to reflect with them about what was angering or confusing. And they will be able to create plans for handling similar situations in the future.

The balance between harm (such as toxic stress) and protective factors (such as a positive school environment) during childhood affects the likelihood of a positive developmental trajectory. Individuals with healthy brains always have the capacity for resilience. Each stage of a young person's life depends on what has happened before, but recovery is possible. Neuroplasticity allows the adolescent brain to be rewired to heal from earlier trauma. This is a critical opportunity for young people involved in the child welfare system.²³⁶ Addressing negative life experiences and promoting positive life experiences can address the harm and act as a catalyst to engage the high neuroplasticity of children, redirecting brain development. Counselling is important, as is mindfulness, physical activity, and socialization. Research has shown many instances of adolescents in adverse circumstances becoming very high achievers."²³⁷

It is essential that those who work with children in care, in the child welfare, education, health and justice systems understand trauma-informed services. The creation of truly trauma-informed services requires specific training, cultivation of expertise, and the establishment of policies and procedures that are sensitive to the issues faced by child victims of trauma.²³⁸ For example, school administrators, teachers and support staff need to be trained in trauma-informed approaches and must be aware of how child and youth victims of abuse and neglect are frequently misidentified in schools as presenting with oppositional defiance disorder, attention deficit disorder, or conduct disorder.²³⁹ In the USA, state governments are implementing trauma-informed approaches in schools to engage education professionals in understanding trauma triggers and creating a safe, stable and responsive environment, and a school culture where students develop emotional management and conflict resolution skills.²⁴⁰ We see internationally the implementation of trauma-informed approaches in several systems that work with child and youth affected by trauma, including child welfare and youth justice systems.²⁴¹ A study involving youth in care in 2015 highlighted the need for foster parents to have training and support in trauma-informed approaches.²⁴² Foster parents and group home staff in our province must have such training. Professionals must help young people process losses, trauma and stress at the same time as encouraging new developmental opportunities. What we also heard from group home operators and foster caregivers was that there is a need for more professional clinical support.

THE CHALLENGES OF CHILD DEVELOPMENT

Early childhood development

The way the brain develops shapes a child's capacities (or incapacities) for thinking, learning, and building relationships. These capabilities are powerful determinants of opportunity in life for success, productivity, and happiness. There is now strong evidence that early psychosocial adversities such as neglect and abuse can have severely damaging effects on brain development and the regulation of stress responsive hormone systems.²⁴³ Furthermore, the relationship between early childhood adversity and physical and mental health problems in adulthood is well-documented, and the detrimental effects of abuse and neglect are felt throughout life.²⁴⁴

Worldwide increases in scientific understanding of child development have been rapid. Modern research has shown that many variations in developmental trajectories throughout a person's life course have origins in early childhood.²⁴⁵ These variations are the products of the interplay between a person's genes and their environment.²⁴⁶ Most importantly, these variations influence the development of neural circuits and physical processes that are directly linked to long-term health trajectories.²⁴⁷ Scientific advances in developmental biology have been profound, and none more so than the discovery of the molecular, *epigenetic*, processes by which environmental conditions can regulate the activation or deactivation of genes. Epigenetic processes contribute to the development of our cells.²⁴⁸ These epigenetic processes play critically important roles in the successful emergence of a child's health, social capacity, and educational ability. Longitudinal associations have been found between stress in early life and epigenetic changes in adolescence and adulthood.²⁴⁹ Very concerningly, epigenetic changes in brain cells have been identified in suicide victims with a history of child abuse.²⁵⁰

Adolescent development

Adolescence is a developmental period abundant in opportunity for youth to learn and grow. There is turmoil, yes, but there is opportunity. It is a critical time, between childhood and adulthood, when a life path can alter momentarily. If provided with the proper supports and protection, adolescents can form healthy relationships with their peers and relatives, develop a sense of self-identity, and have life experiences that are deeply impactful.

During adolescence, transformations in body, brain, and behavior interact with each other and with the environment to shape the adult who the adolescent becomes.²⁵¹ A toxic environment is the enemy of healthy adolescent development. There are three key aspects of healthy adolescent development: (i) healthy development in puberty; (ii)

neurobiological (brain) development; and (iii) psychosocial (psychological and social) development.

Healthy development in puberty

Conflict-laden and less close parent-child relationships exacerbate associations between pubertal maturation and behavior problems.²⁵² Puberty-related hormones influence experiences of depression and anxiety.²⁵³ Cortisol levels are closely intertwined with puberty and gender, contributing especially to adolescent girls' vulnerability to external stressors.²⁵⁴ One of the most widely studied early experiences related to development in puberty is child maltreatment, and in particular, sexual abuse. A study of 100 girls in government child welfare care established association between sexual abuse and earlier onset of puberty and accelerated pubertal development.²⁵⁵ A series of studies show that the age at which girls experience their first period tends to be lower for girls who experienced child sexual abuse.²⁵⁶ The heightened sexual circumstances of puberty may be especially challenging for girls whose lives have already been disrupted by adverse early experiences.²⁵⁷

When cortisol (the stress hormone) is over- or under-produced it can contribute to negative effects, including a 'remodeling' of the brain circuits that alter mood and behavior.²⁵⁸ However, supportive relationships have the potential to mitigate risks associated with early puberty and promote adolescents' capability for resilience.²⁵⁹

Brain development in adolescence

The stage of adolescence is second only to infancy in the extent and significance of the neural changes that occur in the brain.²⁶⁰ The field of adolescent neuroscience has made huge leaps of understanding in recent decades. We know far more now about the development of youths' brains than we did in the past. Unfortunately, approaches to child welfare in New Brunswick have not entirely kept pace with scientific understanding.

Although the onset of puberty starts earlier for adolescents today than it did in past decades,²⁶¹ brain development does not start earlier than it did in the past – kids are still kids. Brain research has conclusively shown that adolescents continue to develop neurobiologically long past puberty.²⁶²

During adolescence the brain's prefrontal cortex, the area that supports planning and decision-making, is immature but developing.²⁶³ So too are the connections within the brain that relate to self-control.²⁶⁴ The situations of children and youth who have been brought into protective care are particularly challenging for their impulse control capabilities. The prefrontal cortex is a part of the brain involved in the ability to regulate our impulse-control, organize our thoughts, exercise empathy, balance our emotions, think rationally and introspectively, plan for the future, and be adaptable to changing situations. The prefrontal cortex is also the brain region that is most susceptible to damage in childhood and adolescence and is therefore it is considered an important

factor in abnormal development in children who have been exposed to severe environmental stressors such as abuse and neglect.²⁶⁵

Psychosocial development in adolescence

Adolescents rely heavily on the emotional center of the brain for decision making. This is because the adolescent brain has much less white matter (the connective wiring that helps information flow efficiently from one part of the brain to the other) than the adult brain does.²⁶⁶ It also means that adolescents are more prone to reacting to rapid-firing pleasurable sensations.

Youth often struggle in ‘hot cognition’ situations, when they feel pressured or are in an intensely emotional situation. ‘Hot cognition’ impedes the capacity for mature decision-making. For children and youth in government care, there is a bombardment of ‘hot cognition’ situations. This contributes to added challenges for healthy psychological and social development. However, anyone working with youth knows that they usually are able to make mature decisions when they are not rushed or emotional. This ability for mature decision-making is referred to as ‘cold cognition’. New Brunswick’s laws reflect this capacity for mature decision-making, for example in the *Medical Consent of Minors Act*. Under that legislation a youth of sixteen is deemed to be an adult for personal medical decisions. A child or youth under the age of sixteen also has the same decision-making capacity as an adult if their decisions are deemed to be in their best interests. Aspects of the *Family Services Act* also reflect this capacity for mature decision-making, for example in providing that a child of sixteen years can refuse to accept child welfare services.

OVERCOMING THE EFFECTS OF TRAUMA-HARMING BRAIN DEVELOPMENT

“I was suicidal. A social worker took me out of that home. She saved my life. I really feel that.”

A youth presently living in a foster home.

Through positive experiences and stimulation, the brain has the capacity for change, both in anatomy and function. This is termed ‘neural plasticity’. Some children who have

faced adverse events and chronic stress manage to not only survive but to thrive. Enriching experiences in the early years will support healthy brain development, even though deficiencies prenatally or in early childhood can interrupt or stunt the growing brain. And while some children are more susceptible to their social environment than others,²⁶⁷ and these more susceptible children are at higher risk than average for negative brain and body development if faced with high adversity, they are also more predisposed than the average child to positive development if raised with support and nurturing. Paradoxically, these disadvantaged children may also have a greater capacity to benefit from positive early interventions than advantaged children have.²⁶⁸

Many children who face multiple early adverse experiences can adapt if protective factors are present.²⁶⁹ Emotional stamina, self-reliance, the ability to adapt, and perseverance all contribute to resiliency. Identifying and promoting resilience and strength, while encouraging the development of protective factors, enhances opportunity for all children. Children are unquestionably at heightened risk for ill-health, learning difficulties and detrimental development when growing up in harsh, unsupportive conditions; they have a greater chance of higher levels of health and positive development if reared in environments characterized by nurturance and support.

Children and youth who have strong attachments to their families have lower levels of mental health problems, such as anxiety and depressive symptoms.²⁷⁰ Support from adult mentors can mitigate risk in cases where parents are not central figures.²⁷¹ Care that includes high levels of sensitivity and emotional support can help to mitigate both the psychosocial disadvantages and hormonal changes that are associated with exposure to chronic adversity in childhood.²⁷²

There is no time limit to the benefits of rehabilitation to address trauma-induced cognitive impairment. Although the preponderance of brain development occurs in the womb and early years, it is important to remember that adolescence is a period of great developmental potential. Adolescent brains are still in a highly 'neuroplastic' stage. While it is essential to address childhood trauma early, we cannot give up on youth at any age.

On the one hand there are the well-studied effects of maltreatment and resultant trauma on the developing brain, and on the other there is the opportunity for recovery through the development of new brain pathways and structural changes. Because the brain is particularly adaptable to change during adolescence, the brains of youth who have suffered maltreatment can be "rewired" to heal from trauma. Best practice shows that this needs to be a critically important focus of the child welfare system.²⁷³

Children, including adolescents, do generally have a profound capacity for resilience.²⁷⁴ Nurturing that capacity is the job of the child welfare system. It is plainly evident to everyone we spoke with who is in the system, working in the system or seeing it from the outside, that the system should be much better at that nurturing.

In 2019 the National Academies of Sciences, Engineering, and Medicine produced a 467-page report to “bring together advances in the science of adolescent development and draw out their implications for the social systems charged with helping all adolescents flourish.”²⁷⁵ That report reflected upon the fact that “the 21st century has featured extraordinary advances in knowledge about the unique developmental processes—and challenges—of adolescence as well as the important role of this developmental period in shaping the trajectory of the life course.”²⁷⁶

It is important to bear in mind that this capacity for high neuroplasticity in children and youth comes with greater vulnerability to the impacts of toxic experiences. Such experiences as deprivation of nurturing, food and clothing, exposure to family violence, exposure to serious drug and alcohol use, and antisocial or abusive relationships have greater impact on brain development in the young.²⁷⁷ However, this same high capacity for neuroplasticity at a young age means that neural connections in the brain can be “rewired” when the child has the benefit of corrective experiences and positive relationships.²⁷⁸ For children in care who have inevitably experienced trauma, positive experiences are critical to redirecting the brain toward healthy development. Positive experiences can strengthen the brain’s neural connections, help development of the brain’s executive function, and stimulate healing.²⁷⁹ Resilience is nurtured through recognition of what they have come through and supporting where they can go. This requires far more individualized commitment to children and youth in New Brunswick than is presently offered.

Open communication is necessary, as is the willingness to validate a child’s need to grieve. Adults can also introduce activities and practices that are particularly useful in helping young people begin to heal from their experiences of trauma and loss through such practices as mindfulness meditation, restorative yoga and self-guided sports like swimming and running. Some youth may feel that prayer or other spiritual activities are useful for healing. In this situation they should be encouraged to discuss their faith and cultural traditions and be provided opportunities to continue to participate in ways and with people meaningful to them.²⁸⁰

Those working in this system need to be upfront and clear about what is expected of children and youth. They also need to be clear about what children and youth can expect and what resources they will have. They need to encourage and support the experiences young people crave and require for their development into adulthood, including being allowed to go places on their own, learning to drive, and having relationships. They also need to celebrate the achievements of these children and youth. They need to help young people reduce stress and take care of their health. And they need to understand that loss may keep a young person from warming up to a practitioner or a new family, no matter how caring the practitioner or family may be. Also important is the ability to understand that adolescents take risks, and that this is an essential part of normal development; it does not mean that these youth are deviant, or that they cannot successfully integrate into a family setting.

Availability for autonomous decision-making is important for healthy brain development. Providing space for adolescents to take risks in developmentally sound ways is necessary for promotion of this autonomy.²⁸¹ Risk-taking is an important part of adolescent development.²⁸² Youth can be impulsive, acting without consideration of consequences. Changes in the social and emotional regions of the brain during adolescence align with youths' tendencies to explore possibilities and try new things.²⁸³ In order to effectively establish the cognitive, social, and emotional skills they need, youth must be given the freedom to explore and to take risks.²⁸⁴ Adults can do more to provide a safer environment for taking risks that meet adolescents' developmental needs.

Children and youth can nurture their great capacity for resilience with the benefit of consistent relationships with caring adults along with developmentally sound and accessible opportunities to exercise risk and autonomy. The United Nations Guidelines for the Alternative Care of Children state: "All carers should promote and encourage children and young people to develop and exercise informed choices, taking account of acceptable risks and the child's age, and according to his/her evolving capacities."²⁸⁵ Youth in government care need more opportunities to exercise risk. This is a normal part of growing up and developing autonomy, and preparing for independent life as an adult. Every good parent probably feels the pull between wanting to protect their child and knowing that their child must develop independence. In the child welfare system, our view based on our work is that the protection aspect far too much outweighs the allowance of independence aspect. The reasons behind the desire for protection and control in government care may also be exacerbated by a fear of liability for harm to children and youth.

Children, and especially youth, must experience failure as well as success. They need to learn to understand consequences of actions. This is imperative for building their self-identity, developing resiliency and learning how to live. It is part of living a normal life, something that children and youth in care are deprived of in too many respects already. Also of crucial importance is allowing exploration in guided and safe ways, and cheering success in overcoming obstacles. Research has shown how things such as approval from peers, acceptance by others and praise trigger a flood of dopamine (a chemical that is produced by the body and sends pleasure signals to the brain) and can reinforce a young person's positive actions and behavior.²⁸⁶

SUPPORTING SELF-IDENTITY OF INDIGENOUS CHILDREN

A strong relationship to cultural identity is often crucial to the wellbeing and developmental process for Indigenous youth.²⁸⁷ When children and youth are not living in their First Nation community and being served by their community's Child and Family Services agency, the Department of Social Development is the child welfare resource. We have repeatedly heard during this review that the Department has not developed sufficient culturally informed approaches to guide the work of its staff, for holistic consideration of cultural continuity and Indigenous community in child welfare services. When we look across the country at what other child welfare services have done in terms of cultural knowledge-building, we conclude that the Department of Social Development is not capacitated to support Indigenous children and youth building positive self-identity in consideration of their Indigenous traditions in contemporary contexts. This places Indigenous children and youth living in non-Indigenous (mostly urban) communities at a severe disadvantage.

Our experience with Indigenous youth in the provincial child welfare system leads us to believe that there is an inherent distrust of the system among Indigenous youth (we stress that this conclusion does not relate to the First Nations child welfare system administered by First Nations Child and Family Services agencies). This distrust likely has the same root cause as the distrust that has been well-documented in health services. For example, the Health Council of Canada found that Indigenous health seekers were less likely to seek help after experiencing treatment a first time because that experience often involved racism.²⁸⁸ The detrimental effects this racism and consequent lack of access to health care among Indigenous people is compounded by poverty and the intergenerational effects of colonization and residential schools. As pointed out in a study of cultural identity for urban Indigenous youth, "this phenomenon is not unique to the field of health care".²⁸⁹ A study of homeless Indigenous youth in New Brunswick was begun by the New Brunswick Aboriginal Peoples Council in 2015.²⁹⁰ The stories of the 63 youth interviewed for this report shed stark light on the lives of Indigenous youth who do not receive adequate support in New Brunswick cities.

The high proportion of Indigenous people living outside of an Indigenous community places obligations on provinces in regard to social services. While some Indigenous youth may still be connected to their Indigenous communities, others may have never lived anywhere other than a non-Indigenous area (the longstanding extreme overrepresentation of Indigenous children in child welfare systems across the country contributes to this phenomenon).²⁹¹ Across Canada, the urbanization effect is more

pronounced for “non-status” and Métis youth – as 74% of non-status First Nations peoples and 66% of Métis peoples live in urban areas, in comparison to 38% of status First Nations peoples and 30% of Inuit Peoples.²⁹² Prior to the 2016 decision of the Supreme Court of Canada in *Daniels v. Canada*,²⁹³ individuals who identified as Indigenous but were not registered as “Indian” under the federal *Indian Act* did not have access to the same programs, policies, and services that other “Status Indians” could access. While the legal right to access such services has expanded, the reality of those services is too often missing a culturally aware focus.

The diverse and complex character of Indigenous cultural identities is sometimes misunderstood by service providers and policy-makers, especially in a context where the *Indian Act*²⁹⁴ has played a central role in causing internal divisions among Indigenous people and has resulted in non-Indigenous people misunderstanding the authenticity, culture, and the meaning of being an Indigenous person.

Some Indigenous youth of course feel that culture is only one aspect of their identity, and perhaps not the central one, but child welfare services must be provided in a culturally aware manner. Identity for many Indigenous youth is associated with maintaining contact with their cultural and spiritual roots. As stated succinctly by social work professor Ashley Quinn, “Supporting the identity development of Indigenous youth, particularly those caught in the nexus of two or more cultures, as is the case of most Indigenous permanent wards, requires accounting for Indigenous ways of knowing as well as effects of colonization.”²⁹⁵

Indigenous youth should not be expected to have a full understanding of their culture or know how to learn about it – they must be connected with people, often Elders, who do.²⁹⁶ The development of cultural strengths-based services in the child welfare system requires working with extended family and community connections. As Ashley Quinn rightly notes: “Families and communities play a major role in the development of positive ethnic and cultural identities by teaching youth about their group’s cultural traditions and fostering ethnic pride, preparing youth to deal constructively with the prejudices and value conflicts they may encounter, and simply being warm and supportive confidants.”²⁹⁷ Educating service providers to recognize the colonial history, ongoing assimilation, and rights of Indigenous youth can help them seek out partnerships with Indigenous organizations to foster positive youth identity.²⁹⁸

SUPPORTING LGBTQ+ YOUTH IN CARE

“We can do much better serving LGBTQ+ youth. Transgender youth need better support.”

A Group Home Management Professional

Adolescence is a time when sense of self related to gender and sexuality become fully developed.²⁹⁹ During this review we met with a transgender youth who had found a supportive family and asked if she could live with them to get away from the abuse and neglect at home. The Department of Social Development facilitated this. “I might not be alive today if I hadn’t come into care,” she told us.

That said, it is not a very welcoming legal regime when the governing legislation (the *Family Services Act*) itself is gender-discriminatory, referring to children with male pronouns only³⁰⁰ (though we note that it was a positive development to see gender neutral language in the Children’s Services and Resources Regulation which came into force in 2020³⁰¹). Of course, children and youth have a right not to be discriminated against.³⁰² It is important to recognize, though, that substantive equality does not mean everyone receiving the *same* treatment. It means everyone receiving the treatment that enables each to achieve what others can achieve. Some groups of children and youth are vulnerable in particular ways and require accommodation and extra support to realize true equality. If the child welfare system offers services in exactly the same manner to LGBTQ+ youth as to cisgender and heterosexual youth, it can be discriminatory, just as providing education services to a disabled student in exactly the same manner as to a non-disabled student can be discriminatory (the classic example is a school with steps and no ramp – every student is ostensibly equally free to enter the school but only those who can climb stairs are able to enter). LGBTQ+ youth require caregivers who understand and accept gender and sexual orientation differences, and services may be required to be provided that are pertinent to LGBTQ+ youth but not other youth.

When providing care to LGBTQ+ children and youth, the child welfare system should offer developmentally appropriate approaches that affirm sexual orientation, gender identity, and gender expression. The system should identify and work to reduce sources of distress for LGBTQ+ children and youth, use LGBTQ+-inclusive language, and help children and youth find resources of acceptance and support. The system should facilitate sexual orientation and gender identity exploration and development.

All homes and placements for children and youth in care should have access to training in LGBTQ+ matters and should display an LGBTQ+ safe space sign in a prominent place. The Ontario government has produced an excellent resource guide to serving LGBTQ+ children and youth in the child welfare system, including the rights of these youth and best practices for care providers.³⁰³ We would like to see this guide adapted for New Brunswick.

As a final point on the subject, we note that the Department of Social Development collects no data on the province's children and youth in care regarding LGBTQ+ identities, and therefore cannot statistically address the widespread phenomenon of LGBTQ+ children and youth being overrepresented in child welfare systems.³⁰⁴ Without data, services cannot identify and address issues this cohort in care may face.

SUPPORTING CHILDREN AND YOUTH WITH DISABILITIES IN THE CARE SYSTEM

“We estimate that 25% of our kids are placed with us just because of mental health concerns, Autism or physical disabilities. That should not happen”

A regional Social Development manager

When families are not equipped to care for children with complex needs, children with disabilities become overrepresented in the child welfare system, and when there is a lack of appropriate placement options, these children are at increased risk of being left in congregate care and institutional settings.³⁰⁵ Professional support and respite for parents can prevent children from coming into care. When children do have to come into care, the existence of a sufficient roster of foster parents who are ready, willing *and able* to care for kids who have higher level needs would allow the child welfare system to appropriately care for those children whose parents are not able to support their children even with aid from professionals.

Regions of Social Development find that parents are exhausted when they have children with special needs. Social workers tell us that professionals in mental health and education services tell parents to call the Department of Social Development to get their children placed in care. Professionals within the Department of Social

Development believe that child protection and child-in-care services are being used as a substitute for disability support services.

It is also a frustration for some in the child welfare system that the Family Supports for Children with Disabilities branch has no role for children in care with disabilities, even though it is within the Department of Social Development.

Child protection and child-in-care services tell us that the increase in the number of children on the Autism spectrum being referred to their programs is a massive challenge, as they have no widespread expertise or specific experts within their Department to help them figure out how to implement the recommendations received from child development experts outside their Department. They also see a lack of in-home supports to parents with children who are on the Autism spectrum and they believe that this has led to an increase in the number of these children coming into care. As one social worker said, "Children with Autism and medically fragile children are often not in school and if they attend, they are certainly not at school full time. Parents sometimes can't handle having their children at home."

We have noted with concern that the Department of Education and Early Childhood Development has failed to clarify the legal obligations of school districts in regard to sending children home or scheduling partial days when the child cannot be accommodated in the common learning environment. The *Education Act* is quite clear that children are to receive educational services at all times when their peers are receiving them. If accommodations outside the "regular classroom" or common learning environment are needed, the school may do this, but the accommodations are to be paid for by the district, not the parent. Too many schools are illegally sending children home or passing the price of accommodations on to parents.

This illustrates another concern we have for children in care who have exceptional learning needs. Parents whose child needs services and accommodations in order to learn, know that they have to be constant advocates for their children so that schools meet their full legal obligations to accommodate. We are concerned that case workers lack the time and training to do this for children in care, and their educational needs may well get overlooked without this advocacy. We urge that practice standards and resources reflect the engagement and advocacy these children require.

When children with disabilities come into care, social workers and managers tell us they feel ill-prepared, and they find the lack of resources available to them to meet the needs of these children overwhelming. They want more training and resources to serve these children. They also note that, "there is huge problem when these kids become adults and the system is not equipped to meet their needs."

Children and youth in the child welfare system who have physical or mental disabilities are entitled to fulsome supports to live a full life, in conditions which ensure dignity, promote self-reliance and facilitate their active participation in the community.³⁰⁶ Assistance must be designed to ensure that the disabled child has effective access to and receives education, health care services, rehabilitation services, preparation for employment, and recreation opportunities, all in a manner conducive to the child's ability to achieve the fullest possible social integration and individual development.

DUAL STATUS YOUTH – YOUNG PEOPLE IN THE CARE SYSTEM AND THE YOUTH CRIMINAL JUSTICE SYSTEM

“No way would I be involved in the justice system if I wasn’t in care.”

A youth in secure custody

“I’m always going to breach because a condition of my probation is to live in my group home, but I don’t want to live here.”

A youth in a group home

It is not hard to find studies that show the overrepresentation of youth in government care in the criminal justice system. During this review, we spoke with youth who had been arrested, handcuffed, shackled, and detained. One told us he did not want to describe the experience. Most told us it was humiliating. For a disproportionate number of youth in care, this involvement too often continues into adulthood – for example, a US study of 18-21-year-olds in government care showed that arrests occurred four times more than for those in that age cohort not in care.³⁰⁷

Research is clear that children who have been taken into government care are at higher risk for falling into the criminal justice system.³⁰⁸ This is partly because when children suffer chronic traumatic stress in their early years, the capacity of the brain to moderate aggressive and impulsive behaviours is lessened.³⁰⁹ Trauma also increases the risk of substance abuse, as a means of self-medicating.³¹⁰ And being moved from one “home” to another in the child welfare system creates instability and increases the likelihood

that a child will exhibit antisocial and delinquent behaviour.³¹¹ The supports these youth may have had in their communities and schools become disrupted by being moved into, and around in, the care system. Almost invariably, these youth require extra educational, social, and health supports.³¹² Connections to education and employment are associated with a lower risk for youth in care entering the criminal justice system.³¹³

The Department of Social Development could not tell us the number of youth in temporary or permanent care who are arrested or even how many are in secure custody, open custody or pre-trial detention. That is astounding to us. These are youth for whom the Minister is meant to act as the legal parent, and yet the Department does not track how many are in trouble with the law or, to put it bluntly, in prison.

We see situations wherein 12, 13, and 14-year-olds are prosecuted and have absolutely no understanding of what is happening. We have attended court when a youth clutching a teddy bear was being prosecuted.

We recently attended court to advocate for a 13-year-old youth in care who has the cognitive capacity of a much younger child. He was being brought back repeatedly to court, and not in accordance with the timeliness the *Youth Criminal Justice Act* insists upon, while repeatedly being diverted to extrajudicial sanctions; these alternative measures very apparently had no relevance to him and no one even pretended that the measures were structured to address his complex cognitive disabilities or his mental health issues. Perhaps the saddest part of this ordeal was that this 13-year-old with the cognitive ability of perhaps a 7-year-old was brought to court for a scheduled appearance, and waited there with his social worker and group home staff as other cases came and went, only for the social worker to be informed that the youth was taken off the docket that day because the prosecutor hadn't processed the charges – the youth's file remained on the prosecutor's desk and the prosecutor hadn't prioritized this youth even enough to inform anyone that he would not appear before a judge that day.

These kinds of cases should be diverted to Youth Justice Committees (which exists throughout the province), which should act in total collaboration with Child and Youth Teams which operate under the Integrated Service Delivery program. Youth Justice Committees have mandated roles under the *Youth Criminal Justice Act* to coordinate with child welfare authorities for children in care, facilitate reconciliation with victims and suggest measures tailored to each particular youth.³¹⁴ This is currently not occurring in New Brunswick. Greater coordination between the Department of Justice & Public Safety and the Department of Social Development would be beneficial in this respect.

Youth in the criminal justice system have higher than average rates of learning disorders, mental health challenges, and substance abuse problems.³¹⁵ These youth often come from backgrounds of trauma, through abusive and neglectful households or

through family tragedy. The high level of ‘crossover’ between youth in care and youth in the criminal justice system is a sad indictment of the child welfare system. Youth in care are at increased risk of becoming involved in the criminal justice system for a number of reasons, including the fact that they are often dealing with trauma, and as a result are more prone than other youth to exhibit negative behavioural issues during adolescence. Risk factors for youth committing legal offences show how susceptible youth in care are to falling into the justice system: lack of family attachment, poor attachment to school, mental health issues and addictions are major risk factors.³¹⁶ There are insufficient services available to address the underlying problems that bring these youth into conflict with the law.

There exist many evidence-based practices that have been shown to reduce recidivism for this vulnerable segment of the population. Currently, we are aware of several programs that are addressing issues to improve the outcomes for these youth in New Brunswick, but these are programs undertaken through the Department of Public Safety and by civil society, not by the Department of Social Development. The Department of Social Development’s mandate to provide support for youth in the Minister’s care must include focused efforts to avoid involvement in the criminal justice system. The Department of Social Development should therefore be developing *proactive* measures based on evidence of what works best in terms of crime prevention for young people in the care system specifically.

We would also like to see legislation to allow Provincial Court judges to make rulings requiring a care plan or mental health services to be developed for a young person before the Court. Often judges express frustration that they lack any power, having heard a case, to actually provide what a young person needs. Allowing judges the discretion to order a treatment plan to be submitted by Social Development would allow for more individualized response to youth justice.

We do see excellent preventive practices in some areas of the province that have very few young people in care who fall into the youth criminal justice system. In those areas, social workers collaborate with others and work hard to find more effective ways than prosecution to respond to youth behaviours.

A major indicator of potential involvement in the youth criminal justice system is, unsurprisingly, previous involvement in the youth criminal justice system. Our work has convinced us that once a youth is charged and prosecuted (and potentially detained and perhaps subsequently incarcerated), the conditions placed upon them by courts are too onerous for them to abide by, and when these conditions are breached it results in new charges.³¹⁷ If youth have been taken from their parents and placed under government care, probation orders become extra onerous, as a court-ordered condition to abide by the rules of the foster home or group home can be complex. It is a terrible Catch-22

situation; research has concluded that the more conditions imposed upon youth by court, and the longer the length of time youth are subject to conditions, the more likely it is that a youth will accumulate more charges.³¹⁸ This sets these youth up to fail. Moreover, research has conclusively shown that risk factors for youth reoffending “paint a picture of complex and disadvantaged youth who lack structure, support, and stability, and who require specialized, targeted interventions.”³¹⁹

Youth who are accused of legal offences should be diverted from judicial proceedings toward care, guidance and supervision to ensure that they are, in accordance with the *UN Convention on the Rights of the Child*, “dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.”³²⁰ The child welfare system needs to maximize the potential for positive factors to counter the risks, such as providing necessary support services, ensuring adult role models, and facilitating pro-social peer groups (such as the New Brunswick Youth in Care Network).³²¹

Youth in the child welfare system who fall into the youth criminal justice system have the right to “be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration.”³²² When the child is in care under guardianship the Minister of Social Development has full parental rights and is obligated to exercise full parental responsibilities with respect to the child.³²³ The “parenting” we have seen by government to date has frankly not always been adequate.

Legal representation for youth

“What would you do for your kid if they were facing charges for smoking pot? You’d hire a lawyer who had time to really handle the case. The Minister of Social Development seems like a parent for these kids with enough money to do the same.”

A child-in-care social worker

“The Crown prosecutors don’t know anything about complex trauma in childhood development, and neither do Legal Aid lawyers. They need training in that, not just criminal law.”

A child-in-care social worker

The Department of Social Development in the past hired lawyers from the private bar (i.e. not Legal Aid) to represent youth in care in Youth Court (criminal justice) matters.

There was a change in this policy, and now Legal Aid services is contracted to represent youth who are in government care when they face criminal charges. It is no longer the norm (although it may still occur in exceptional circumstances) for youth in care to have a lawyer represent them who is not from Legal Aid. As one child-in-care social worker told us, "Now it's somebody different every time." The complaints from social workers were not related to the legal skills of Legal Aid lawyers; those skills are of a very high order. Legal Aid lawyers are excellent at what they do. The complaints we hear are related to the issue that, in the opinion of some social workers, Legal Aid lawyers usually do not have the time get to know their youth clients to the extent that private bar lawyers do.

MORE THAN JUST A FILE

As a fourteen-year-old with Fetal Alcohol Spectrum Disorder, Zack was in the child welfare system. His behaviours at his group home (property damage and uttering threats) led to calls to police, which led to charges. He was sent to the Restigouche Hospital Centre for a court-ordered psychiatric evaluation to assess mental fitness to stand trial and criminal responsibility. His Legal Aid lawyer did not know he had been sent there by the court, as only duty counsel represented Zack for his first appearance. After his stay for evaluation at the psychiatric facility, Zack was then sent to the detention and secure custody facility to await being brought to court to enter a plea. The professionals there told us: "He should not be here; this is a young person who has cognitive impairments that prevent him from understanding the consequences of his actions, we can't help him here." Zack was transported in a caged sheriff van, strip searched and placed in institutional clothing, and placed in a unit with youth who had been convicted of crimes. He was assaulted twice while in custody. Other youth there told us of the bullying Zack faced, such as one youth urinating in Zack's shampoo bottle. The administration isolated Zack to keep him safe from other youth and from himself. He had high suicidal ideation and while detained he attempted to cut his wrist with a jagged piece of plastic he found in the Sheriff van. In the end there seemed to be no reason for him to have faced any of these ordeals. When he finally did come to court to face charges, he was admitted to an extrajudicial sanctions program that we believe he should have been admitted to before being brought to court in the first place. We believe it is legitimate to wonder if all of this could have been avoided had this child had a lawyer before he first appeared in court, who would know his situation and could have advocated for him to engage in a meaningful program with institutional detention.

Speaking about a lawyer from the private bar, another child-in-care social worker told us, “He would learn about the youths’ histories and their situations. Legal Aid lawyers don’t meet with us before court or even at court, they don’t ask us to help with any submissions to court – youth in care have backgrounds that should be taken into consideration when a judge is sentencing them.” The developmental background of each youth should be taken into consideration in terms of deciding on the use of extra-judicial (outside of court) measures. Social workers also told us that there are delays due to the unavailability of Legal Aid lawyers. We cannot be certain if this criticism is borne out by the facts across the province, as a study of that magnitude on legal services provision is outside the scope of this child welfare system review. However, when we researched Legal Aid funding during our 2016 review of the youth criminal justice system in New Brunswick,³²⁴ we found that New Brunswick was the lowest-funded province per-capita for Legal Aid.³²⁵ This was during the time when the Department of Social Development decided to move to Legal Aid representation for youth in their care. It is the Department of Social Development’s position that the funding for Legal Aid is not the Department’s issue. While it is certainly true that the Department of Social Development does not control Legal Aid funding in this Province, the Advocate’s position is that Legal Aid funding is very much an issue for the Department to be aware of, as they should be attuned to what potential limitations exist for the organization providing legal representation to youth in government care. While New Brunswick has moved from lowest to second-lowest (behind PEI) for per capita revenues for Legal Aid,³²⁶ this has not changed the situation for youth in the care of the Minister of Social Development, and the Department should very much be considering the ramifications of this.

We also heard from social workers that they have difficulty understanding their role in Youth Court now. Social workers tell us that the very brief interactions with duty counsel make it impossible to provide information that would be needed to properly understand the young person’s situation. One social worker informed us that she had been told by her Social Development supervisor not to talk to duty counsel at all. For the first appearance in court after being charged, if a youth does not have private counsel (lawyers are often hired by parents for the children facing charges, but this is not common for youth in government care), they only have access to duty counsel. Duty counsel are lawyers who provide basic advice about process in court but have no ongoing involvement in a youth’s defence. Why a Social Development supervisor would tell a social worker not to speak to duty counsel is a mystery, but given the extremely limited role of duty counsel, it likely would make little difference. Nevertheless, the social worker who told us this did not have a strong understanding of the youth court process, and did not know how best to help the youth in their care.

Another social worker said she was told by her supervisor in Social Development that the Crown prosecutor was their lawyer and that she shouldn't talk to defence counsel. At best this is a deeply problematic misunderstanding, but at worst it reveals a shocking lack of professional ethics. Child in Care Social Workers should work closely with defence counsel on presenting plans and pre-sentence reports for the court. Social workers need to advocate for youth in their care. According to social workers in the system, this has apparently become more of a challenge since the Department of Social Development stopped generally hiring lawyers for youth from the private bar.

RECOMMENDATION 16

Child welfare legislation should include a right to a lawyer as personal counsel, not duty counsel, at first appearance in Youth Court for any youth with a care status. The Department of Social Development should create a detailed guide for social workers that explains how best to advocate for their client in youth criminal justice matters.

Prosecution, detention and incarceration

"I can't believe that after Ashley Smith, mental health staff still have to continue to have a youth charged to be sent for psychological assessment."

A child-in-care social worker

"I had a 9:00 curfew, living in a group home. That was part of my one-year probation order. Two weeks in I breached."

Sixteen-year-old youth-in-care sentenced to secure custody

"Judge [X] is an awesome judge, so compassionate, and understands the situations of these kids."

A child-in-care social worker

Administration of justice offences are situations such as failing to appear in court and failing to comply with bail conditions or probation orders. For youth this can mean disobeying a court-imposed curfew, not attending school, drinking alcohol or taking

illegal drugs – all things that trauma-impacted youth in the child welfare system are more prone to do. The federal Department of Justice has noted that 20% of youth court cases nationally are for administration of justice offences, and 35% of cases resulting in custody are a result of such offences. The following statement by the federal Department of Justice succinctly encapsulates a situation we see in New Brunswick: “Too often young people, particularly vulnerable young people, are subject to myriad conditions, many of which relate more to their social welfare needs than to criminal justice purposes. Conditions such as curfews, or the requirement to obey parents or obey the rules of the young person’s house where they reside, often lead to breach charges for behaviour that is not otherwise criminal.”³²⁷

Amendments in 2019 to the federal *Youth Criminal Justice Act* were intended to address this problem, but these amendments alone will not sufficiently address the problem. Prosecutors, judges and probation officers must orientate their decision-making to avoid criminalizing trauma-related adolescent behaviour. Conditions placed on young people in probation orders often seem illogical, as they can be nearly impossible for youth to abide by. Courts should take dual status situations into consideration when imposing bail terms, conditional discharge terms and probation terms on youth, in order to avoid setting youths up to fail. However, the more important reform would be to prevent these youths entering court at all. Status offenses such as running away, breaking group home rules, using cannabis or alcohol should be dealt with through extrajudicial measures. For more serious offenses, rehabilitative measures, especially involving restorative justice aspects that hold the offender accountable to the victim and that reintegrate offenders back into community supports, should be the default process.

It is frankly disheartening to keep seeing these very young kids be put through a system they don’t understand and that is ineffective in achieving the *Youth Criminal Justice Act* principle of supporting the prevention of crime by addressing root causes of behaviour. While addressing this problem requires the kinds of changes to group homes, foster care and policing that we have recommended elsewhere in this report, Crown prosecutors also have an important role to play.

MORE THAN A FILE

In his early teens, Jeremy suffered a traumatic brain injury in an accident and his behaviour became erratic. He was referred to child welfare authorities by his school, as a means of accessing mental health and addictions supports which his parents had refused to allow. This referral

from school was not 'screened in' by child protection services for the reason that there was no perceived abuse or neglect in the household. The police later made a referral to child protection services after Jeremy made suicidal threats, but this was screened out by child protection services because again there was no perceived abuse or neglect at home. The police referred him to child protection services yet again when he was arrested for uttering threats. This was screened out. Jeremy attempted suicide and was hospitalized. A child psychiatrist made a referral to child protection services. This time, it was screened in. Four days later a social worker was assigned to the file, and two weeks after that the social worker contacted the family to offer supports. Five more days elapsed before the social worker met with Jeremy, who was by that time sixteen and therefore old enough legally to refuse services, which is what he did. Whether he had capacity to make an informed decision to refuse those services is doubtful. The legal ability to refuse child protection services at age sixteen is subject to an exception if "the child is a disabled person".³²⁸ Certainly the severe brain injury impaired Jeremy's cognitive abilities and disabled him.

The child protection worker then referred the matter to mental health and addictions, and closed the child protection file. Four months later a fifth child protection referral came, this one from a police officer who had arrested Jeremy. He was then sent by the court to the youth detention and secure custody facility (the youth prison) for a 30-day psychiatric assessment. In the opinion of the Advocate this should never occur – a criminal custody facility is not an appropriate environment for a psychiatric assessment, which can legally occur in a hospital setting or in community. The referral to child protection services was not screened in because Jeremy was in the detention and secure custody facility. However, at this point a supervisor in child protection services made a note in the system that consideration should be given to assess whether Jeremy should be viewed as a disabled person such that he could not refuse child protection services. This question was never resolved. After the psychiatric assessment at the secure custody facility, Jeremy returned home. He ended his life within days of being released.

It is a terribly tragic story and one that has been difficult to process for many professionals involved. In the end, it seemed that help for this youth was not clearly within the mandate of child welfare services. Correctional services certainly do not operate in an environment suitable to address the underlying issues of a youth with severe suicidal ideation who is in mental distress. Nor does Correctional Services have the expertise to address

these matters (notwithstanding the beneficial existence of counsellors now at the youth detention and secure custody facility). There was no multidisciplinary collaboration or planning for this youth's dire needs. When we happened to read a European Court of Human Rights decision related to the death of a young man in custody, we were reminded of Jeremy: "The lack of effective monitoring of [his] condition and the lack of informed psychiatric input into his assessment and treatment disclose significant defects in the medical care provided to a mentally ill person known to be a suicide risk."³²⁹ In the case of this teenager in New Brunswick, it was not only the lack of adequate medical care that was the problem, it was also the lack of any coordinated and comprehensive plan for his care.

This again is a reason why the province needs a collaborative approach to child welfare services. We believe that there is an obligation to take comprehensive preventative measures in cases of known or easily knowable imminent risk of harm or death to a child. The obligations of government to respect the "inherent right to life" under the UN *Convention on the Rights of the Child* include an obligation to take appropriate steps to protect life, and "ensure to the maximum extent possible the survival" of each child and youth.³³⁰ The experience of Ashley Smith³³¹ still haunts New Brunswick's youth correctional services but, while positive changes have undoubtedly been made, we continue to see young people placed in detention or secure custody when they have profound mental health and child welfare needs. The Department of Justice and Public Safety has taken the lead with important strides such as a model to divert young persons away from court and incarceration, Youth Justice Committees as community-based and multidisciplinary responses to youth offending, and a clinical team at the youth detention and secure custody facility. But the Department of Justice and Public Safety cannot address child welfare and mental health needs. Youth with these needs should not be placed at the detention and secure custody facility at all, and most certainly not detained there for a 30-day court-ordered psychiatric assessment. The fact that Jeremy was repeatedly referred to child protection services and was repeatedly refused those services reveals an institutional and procedural failure.

Reintegration into community

“Stop criminalizing these kids, you are their legal parent and they have mental health challenges.”

A professional in the youth criminal justice system

“I’m getting out this Thursday. My social worker has already set me up with independent living and a dentist appointment the next day. She’s great. She’s a really good advocate for me. She puts in a lot of OT for me. She visits me here and she was at court.”

Seventeen-year-old youth sentenced in secure custody

“If I go back to high school now, I won’t be caught up and I’ll feel stupid and quit.”

Sixteen-year-old youth sentenced in secure custody

There are challenges for rehabilitating youth in the secure custody facility, and there are challenges in reintegrating them into school, housing, job training and community supports when they are released. These issues have seen huge improvements over recent years, although challenges remain. Unquestionably, part of the remaining problem is the disconnect between the Department of Social Development and secure custody facility. This issue has been addressed in this report already.

The Department of Social Development has an important role to play in the youth criminal justice system, and one area wherein we see good work is in open custody sentences. Social workers from the Department of Social Development are assigned to every young person (not only those who are in the care of the Minister of Social Development) sentenced in Youth Court to open custody. This is an excellent thing. The Department of Social Development makes connections in home communities for safe places to stay when a youth is released from one of the two open custody facilities. The Department of Social Development works with the Department of Public Safety, contributes to case conferences, helps coordinate services, and provides supports.

What we do not see is the Department of Education & Early Childhood Development and the Department of Post-Secondary Education, Training and Labour taking fulsome responsibility to ensure education and job training for youth in government care. Education is a key factor in avoiding repeated involvement in the criminal justice system. Most of these children and youth require educational supports beyond the norm.³³² Training for jobs is another key factor. A study using the National Survey of Child and Adolescent Well-Being data showed that connections to employment and education were associated with a lower risk for arrest.³³³

There remains one more disconnect to note – the disconnect between the Department of Social Development and the general public.

The Department of Social Development's website states:

“As the result of an interdepartmental agreement with the Department of Justice and Public Safety, a youth having an open custody status must reside in a residential setting approved and monitored by the department. Specially designated foster homes and group homes are used as open custody facilities.”

This statement is completely untrue. The Department has not licensed foster homes as open custody facilities in the past decade. We wish they would. They don't. And they haven't changed the website that says they do.

While we know that people in the Department of Social Development are extremely busy (and often frankly have more work than is reasonable to manage), there is an obvious lack in terms of public information. The Department is accountable to the public, and it is a problem, for example, when the Department's website has a page entitled “Young Offenders in Open Custody” which not only uses terminology harkening back to legislation (the *Young Offenders Act*) that has not been in force for more than a decade and a half, but also contains inaccurate information.

MORE THAN A FILE

Tracey is a youth who was charged with several offences and placed in the detention and secure custody facility while awaiting a court date. Shortly prior to Tracey's hearing she contacted the Department of Social Development seeking assistance, as she believed she would be homeless if she were released. Tracey had previously resided in several group homes in the region and the Department believed it would be difficult to find her a placement due to past incidents. Social Development did not secure housing for her prior to her court date. Moreover, when the Court remanded her to detention for three weeks to await a sentencing hearing, Social Development required Tracey to call them again to request a new file be opened to ensure she would have a place to live if released. We view this as an unhelpful bureaucratic approach to child welfare. Instead of administrative obstacles and a seeming unwillingness to act until a crisis happens, we would like to see proactive efforts with the best interests of the child in mind.



PART 7.
THE IMPORTANCE
OF RELATIONSHIPS

They need to know us. Don't judge a book by its cover. Even though I was brought up in drugs and shoplifting and fighting, I don't do these things."

A youth in care

"The most important people in my life are [social worker], [a group home staff worker] and my little brother."

A fifteen-year-old in government care

"I would like them all to know that it was the shittiest experience, it feels like they are always against me in my life choices"

Youth deciding to refuse further child-in-care services as he is turning sixteen

"When a child is placed in alternative care, contact with his/her family, as well as with other persons close to him or her, such as friends, neighbours and previous carers, should be encouraged and facilitated, in keeping with the child's protection and best interests."³³⁴

United Nations Guidelines for the Alternative Care of Children

The crucially important developmental changes happening during adolescence mean that the day-to-day relationship between child welfare professionals and those in their care matters a huge amount. Relationships with caregivers such as foster parents, group home staff and outreach workers are crucially important. Kinship connections are also imperative. Children and youth also need the opportunities to foster and maintain strong relationships with friends. There are systemic challenges in all of these relationships for children and youth in care.

For example, child protection and child-in care social workers have demanding caseloads that hinder regular contact with children in care. Foster parents may not be provided with the training and supports to manage challenging trauma-related behavior. Group home staff come and go and may not be able to connect with children in their facilities. Youth outreach workers are in short supply. Connections with family relations require provision of transportation and means of ensuring regular visits. Constantly moving placements causes children in care to lose contact with friends and hampers their ability to make new lasting ones.

However, changes in brain structures and functions allow for a remarkable amount of developmental 'plasticity', meaning that children and adolescents are very amenable to positive development, even in the face of adversity. Fostering strong connections, encouraging healthy habits and positive relationships, and rewarding accomplishments can aid in the development of the brain to depend more on rational thinking. As the pre-

frontal cortex develops, youth become more adept at taking current context and future implications into account before acting. Trauma-impacted brains can adapt to better regulate their decision-making capabilities. Resiliency is possible when the right supports and services are provided. Youth need professionals who can speak with them about what is going on in their brains and help them make sense of it. Sustained connections with caring adults are a big part of this brain rewiring process.

SOCIAL WORKERS

“My social worker understands me, knows what she's doing, is proud of me, does everything for me.”

Fifteen-year-old youth in care

“It really is an honour to be guardians for these kids.”

A child-in-care social worker

“They should take time when they see us; I feel pressured to say what I have to say right away, and I do not like it.”

A youth in care

“Social workers are trained to work with people. The administrative tasks are too much.”

Professor of social work

“What makes a good social worker? Someone who will actually talk to you and ask you questions... not someone who hides stuff from you.”

A youth in care

“In my second foster home the man was making sexual advances to me. I was writing in my diary and my social worker believed me and moved me.”

A youth in care

“He didn't try to pretend to know what we are going through, but he was there for us and we really liked him.”

Two sisters in care speaking about a social worker

A good working relationship between the social worker and the client plays a far more important role than the intervention utilized.³³⁵ It was always heartening to hear things from children and youth like this seventeen-year-old living in a group home: “My social worker now is awesome.” And this from a former youth in care: “It shouldn’t be all business. My first social worker would build a fort with me and would even help my mom pay for groceries.” However, there are institutional challenges to forming relationships in the child welfare system, as young people are often placed in residences which can limit opportunities for healthy adult relationships and family-like connections.³³⁶ The in-care system, with all of its unpredictability, is stressful for children, and chronic stressors are particularly harmful for children who do not have the protection of stable, caring and responsive relationships.³³⁷ Social workers have the primary responsibility for ensuring that children and youth have meaningful connections to adults and peers. Social workers also understand the need children and youth have for consistent relationships, and they know what a huge challenge this can be in the child welfare system. It is vitally important, therefore, that all professionals who interact with children and youth in care work toward ensuring meaningful connections.

Children’s experiences with social workers (or any support worker) vary, depending on the child’s personality. Some bond very well with their social worker. Some who had left care still keep in touch with their social workers. Sometimes a social worker simply isn’t a good fit for a particular child. This may appear to be irrational petulance on the part of the child, but very often preferences are based on solid reasoning. For example, some children who have been abused by a male do not feel comfortable with a male social worker. Some children do not relate well to females, some don’t to males, etc. To ensure connection the child needs to have more choice.

To youth, it seems like a system of contradictions. Social workers who go the extra mile and then another extra mile, and social workers who won’t return phone calls from kids. Youth want their social workers to, as one youth told us, “Think of what they would do if it was their own child and try to put himself in the place of the kid.” And, as another youth said, “stop putting up a blocking wall.”

Some youth have not liked their social workers. It is a fact. This may often be outside the control of social workers. Sometimes it is simply not a good fit. One youth felt badly upon reflection because she recognized that she couldn’t form a relationship with one social worker just because the social worker reminded her of her mother. Sometimes youth have concerns about how social workers interact with them. Youth told us they feel blamed when social workers question them, and that they can be “too cold,” “block their emotions” and “can’t be themselves” in their work.

Some youth told us they love their social worker, some said they didn’t. Some see their social worker regularly, others see them seldom. Some youth say their social worker

'gets things done' while others say their social worker won't even answer a phone call. The youth we spoke with invariably had had multiple social workers. One positive thing is that most of them had at least one social worker they connected with. One youth reminiscing about her favourite social worker said "She was really nice, really listened to me. I felt at ease with her right away when I met her."

Social workers, like anyone, will change jobs, retire, or move away. But it is imperative that, as far as is possible, there be a consistent social worker for a child. The Department of Social Development was not able to provide the average number of social workers with responsibility for a child-in-care file over the course of a file's history. We suspect the number would be alarming. It does occur that a child might have the same social worker for years. This is usually a very beneficial situation. Admittedly, we did hear from some youth such as a nineteen-year-old former youth in care, who had had the same social worker for 16 years and had been refused a request to change to a new one, who told us: "My social worker hid so many things from me, I couldn't trust her. But I was stuck with her." Surely there must be more flexibility when a youth requests a new social worker. But most of the youth who have the same social worker over the course of their time in care are grateful. As a 19-year-old youth ageing out of care told us: "I have always had the same social worker and I feel at ease with him. I know he is doing his job well." It is rare, though, in our experience, for children and youth to have had the same social worker throughout their time in government care.

The real barrier, we believe, hindering solid relationships between social workers and youth in care, is the structure in which social workers must work. Social workers should not be immobilized in their efforts by a structure that hampers their professional judgment. Acting as a legal parent entails saying no sometimes. The problem is not having to say no, though; the problem is social workers being inhibited by the rules of the system. Practice standards and guidelines are important. But they are tools – they should not be shackles. Social workers have skills and judgment to bring to bear on situations. They must always act according to the rights of children and youth, but they need some flexibility. The system needs to be less rigid in order to respect the professional judgment of social workers who know best what a child needs in a particular context. As a seventeen-year-old youth suggested: "Bend the rules a little bit, it helps develop more of a bond; we get to see them as a human being who actually cares rather than someone doing a job."

Frequency of contact

Regional managers in Social Development told us the most frequent request of youth in care is to see their social worker more often. The way the system is presently

structured, social workers look to privately contracted youth workers to work with children and youth, as the social workers cannot be there frequently.

The current standard is that the social worker sees the child or youth once a month (unless the case plan says longer, to a maximum of once every two months). Social workers cannot always meet this standard. The Department of Social Development has people with incredible expertise, but we have concluded that those people are given too many tasks to be able to do them all to the level they would want to. The Auditor General review of group homes and specialized placements found an “ineffective use” of social workers’ skills. The report stated: “In our view, social workers should focus on conformity with practice and care standards and ensure quality care is provided to children.”³³⁸ We agree. It is certainly necessary for information to be collected by social workers about their files, so that the quality of service can be monitored and measured. But this should not be done by sacrificing care to children. It is apparently a workload problem. Children and youth want to see their social workers. As a youth in care told us: “They should take the time to call us and tell us that they think of us, and come see us; it’s really important that they come to us.”

A related issue is that when social workers visit children and youth in their care, they need to have the time to really talk. This quote from a youth in care was very revealing: “If necessary, they should reduce the number of kids social workers have to see, so that they can take more time when they meet us. Don’t put another appointment right after ours. It’s always a rush.” Youth in care had very different experiences with different social workers. A youth who has had six social workers in six years told us, “The social worker I liked the least didn’t keep his appointments with me and I was always waiting for him.” But a different sixteen-year-old in a group home told us: “I’m happy with the social worker I have. She listens well. I see my social worker often and can see her before appointments if I need to.”

Beyond the caseload for social workers that apparently inhibits in-person contact, there is the question of whether children and youth have other means of reaching their social workers. An 18-year-old in care said: “I would like social workers to really describe for us what numbers we call to reach someone when we really need to speak to the social worker.” Another youth in care knew what number she could call but had to devise a strategy: “I don’t leave messages, I just keep calling her until she answers – that’s the only way I can get her.”

In Bridgeport Connecticut social workers use social media to connect with youth in their caseloads.³³⁹ This idea raises some alarm in terms of confidentiality protection. Child welfare is dealing with incredibly personal information and professionals are right to be very careful to protect it. But the system needs to become more child-and-youth-oriented, and ideas such as this should not be discounted simply due to current

legislative and regulatory structures. Whenever there are practices that work best for youth, the system should adjust to accommodate these practices. If there are legal barriers, they must be removed and if there are structural barriers they must be overcome.

Timely decisions

Some children and youth want to see their social worker more than they do. Some want to see them less. But all want a say in decisions. And all want decisions to be made in a timely way. A constantly recurring criticism of the system from youth in care is how long it takes to get answers to their questions. New Brunswick's child welfare law requires that "any procedural delay should be avoided as much as possible."³⁴⁰ We heard innumerable complaints about how long it takes to get an official answer to questions. One youth in care put it bluntly: "Come here to sign permission requests or report cards, or designate someone else who can sign those things; why do I have to fax it and wait to get it back?"

As adults we tend to forget how when we were young summers seemed to last forever. A period of a few months for an adult is not a large proportion of their lives lived thus far, but it is a large proportion of the number of months a child has lived. It is not easy for us to remember what it was like as a child, when time seemed so elongated, but the best evidence-based legislation around the world relating to young people recognizes this fact. For example, one of the foundational principles of the federal *Youth Criminal Justice Act* is that is that the system must emphasize "the promptness and speed with which persons responsible for enforcing this Act must act, given young persons' perception of time."³⁴¹ Child welfare practice standards, policies, regulations and legislation should all reinforce the importance of timely decision-making for children and youth.

Some more thoughts from youth

Beth did not like any of the social workers she had because she thought they were asking her too many questions and asking their questions in a way that made her think she was being blamed. She likes people who have a "soft approach" and she says with a laugh that "you can win with food." She also detested that, in her view, social workers were too cold, that they blocked their emotions and could not be themselves with her.

Chantal liked her first social worker who took her out of her mother's house and the third social worker who she had for two and a half years; this social worker came to see her often, was very available, even after work hours, and returned her calls and “even sometimes was in the office and took calls right away.” The second social worker who she had for twelve months made no meaningful connection with her and the group home had to request a change of social workers because this social worker did not visit frequently enough. Now that the third social worker has moved to a different position, Chantal has a fourth social worker and is nervous and not sure if she will feel comfortable with her or not.

Sarina has had three social workers and the third is her favourite because she gives Sarina “more of a say than the others did.”

Dana says her social worker did not believe that the foster mother would get into screaming matches with Dana, until finally one day the foster mother admitted this. She feels that social workers should be there to look out for the children and youth not only for the foster parents.

Youth told us that they think the Department should put more social workers with kids in care and ensure that the social workers meet with all the young people more often, that social workers should have more training in youth psychology and emotions, and that children should have the right to request a new social worker.

FAMILY

“I have an older brother, but I don’t get to see him much because the group home staff don’t drive us to see our family.”

A youth in care

“My hope is to get to live with my parents again. I don’t think they are willing to take me just yet, but I hope that will change.”

A youth in care

“I’d like to see the visiting schedule created by youth and not by their parents or adults they are going to visit. Maybe the youth wants to spend more time with one parent than the other.”

A youth in care

Children and youth in care usually yearn to see their family members. They feel alone and terribly sad much of the time. Children have the right not to be separated from parents other than when authorities determine this to be in their best interests.³⁴² If separated from parents, the child retains the right to maintain personal relations and direct contact with both parents on a regular basis, again except if it is contrary to the child's best interests.³⁴³ Children have the right to visit privately and regularly with their family, unless a judge orders otherwise. The right of children and youth in care to preserve family relations is not limited to visits with parents – it includes broader family relatives.³⁴⁴ Very importantly, it also requires those with the care and control of the child or youth to take adequate measures to facilitate these interactions.

Many of the youth we spoke with had managed to form healthy relationships with parents after being in government care. Most children and youth want to have some connection to their biological family. A youth in care with her sibling told us: “We have contact with our grandmother [on the phone twice a week and for visits], and our older sister [who lives in Ontario]. We see our mother once in a while if she comes to our grandmother’s house.”

It is very common for children in the system to want to return to parents even when those parents have been abusive or chronically neglectful. This kind of comment, as said to us by a youth in care, was not overly uncommon: “My social worker won’t allow me to have any contact with my dad, she thinks he is a bad influence on me; I think my social worker is the bad influence. I find he’s better than being in the group home.”

We have commented already that the system is sometimes too slow to make a permanent decision on placing a child, leaving children in limbo for years under the guise of working with a parent to restore that parent’s custody. At the same time, this instinct leads to the Department also being too rigid about maintaining contact with a parent who is not able to take back custody. For example, we are aware of cases where parents wrestling with addiction have had even supervised visits cancelled because they have been suspected of using drugs. Visits with parents are a right of the child – not a rehabilitation incentive for the parent. An imperfect parent’s visit can still be important to the child’s sense of security and development, and unless a visit is unsafe, contact with a parent should not be denied as a way of expressing disapproval of the parent’s behaviour.

We further note with concern that there are court cases in which the Department has acknowledged that siblings have been separated without any assessment of the risks of that separation to the children. Often, siblings become the source of security and permanence for each other when they are living through a neglectful or abusive

experience. Not only should separation of siblings be avoided where possible, there should always be an evaluation of the need for this contact.

Many children and youth in care felt that their foster family was their family, but many still had good connections with grandparents or other relatives. As a 19-year-old who is now out of the care system told us: “I got to see my mother and grandmother and more family during my placement. I am happy that I was able to maintain that contact, because today I have a good relationship with both my parents, and we can have a meal together or even be at a party together.”

Social workers, Supervisors and Managers consistently noted that the family unit itself has changed. Two parents and their biological children is now the exception rather than the norm. They see a lot more situations such as separated, divorced parents, often in a relationship with another spouse who also has children, or a biological single parent with different fathers or different mothers for each of their children. When working with one household, this can mean working with several biological parents for the children, some step-parents, and several sets of grandparents. It is a very difficult task and requires a system that allows social workers the time to facilitate contact with children’s family members. It may also benefit from amendments to the *Family Services Act* which will allow a Court to consider contact orders as part of a granting of custody or guardianship to the Minister.

COMMUNITY

Community members and organizations can play a major role in supporting children and youth in care. Engaging community organizations in services in the child welfare system opens opportunities for creative measures tailored to each child or youth’s interests and needs. Support from a community agency can be impactful in the short term and continue in the long term beyond the youth’s time in care. Engaging community organizations to address the developmental needs of children and youth in care is important because these organizations “can get started more quickly, be more successful, and increase the likelihood of sustaining programs over time.”³⁴⁵ Furthermore, “Partnerships with community-based organizations are a good way to ensure that service providers are more diverse and better represent the clients to be served.”³⁴⁶ The Department of Social Development utilizes community organizations to the benefit of children in care, through relationships with organizations such as Big Brothers Big Sisters, Partners for Youth, the YMCA, Scouts and Guides, and others.

There are many more possibilities to explore by forming structured agreements between the Department and a multitude of community organizations.

It is also important to look beyond large provincial organizations to local ones that offer programs that can be more in line with a particular youth's specific interests, whether it be martial arts, swimming, rock climbing, computer programming, orienteering, chess, cooking, gymnastics, or any number of other activities. Having a supportive mentor relationship with an adult outside of home can help in many ways, including making children and youth less likely to exhibit bullying behaviours and suffer from depression.³⁴⁷ Having even just one supportive adult in their life can significantly increase the likelihood that a child will develop positively.³⁴⁸

In relation to engaging community organizations, it is worth noting here a persistent problem with Social Development Record Checks. These checks are important, as they identify people who have been flagged for involvement in the child protection system and prevent people from working with children if they have been found to endanger the security or development of a child.³⁴⁹ However, the process has suffered from some flaws in regard to flagging people when no actual endangerment has been substantiated. This prevents some good people from being able to provide services to children and youth. The appeal process for this tool needs to be clearly articulated to all whose names have been registered in the case management system, to have their names removed and free them to work in child and youth services. Having stated that, it is of course also imperative that organizations providing services to children and youth are aware of the dangers of abuse and have processes in place to ensure safety.

YOUTH WORKERS

“The positive experience is I have a support worker that takes me out Mondays and Wednesdays and I get to express how I feel about certain situations to him and I get to spend two hours and hang out with him. He’s the type of guy that hears you out and understands what you are talking about. More like a friend. More fun. My support worker is the best person to ask when I have questions about things.”

A youth in care

“We are taking the least trained people to do the work with the most challenging families.”

A social worker speaking about community agency staff

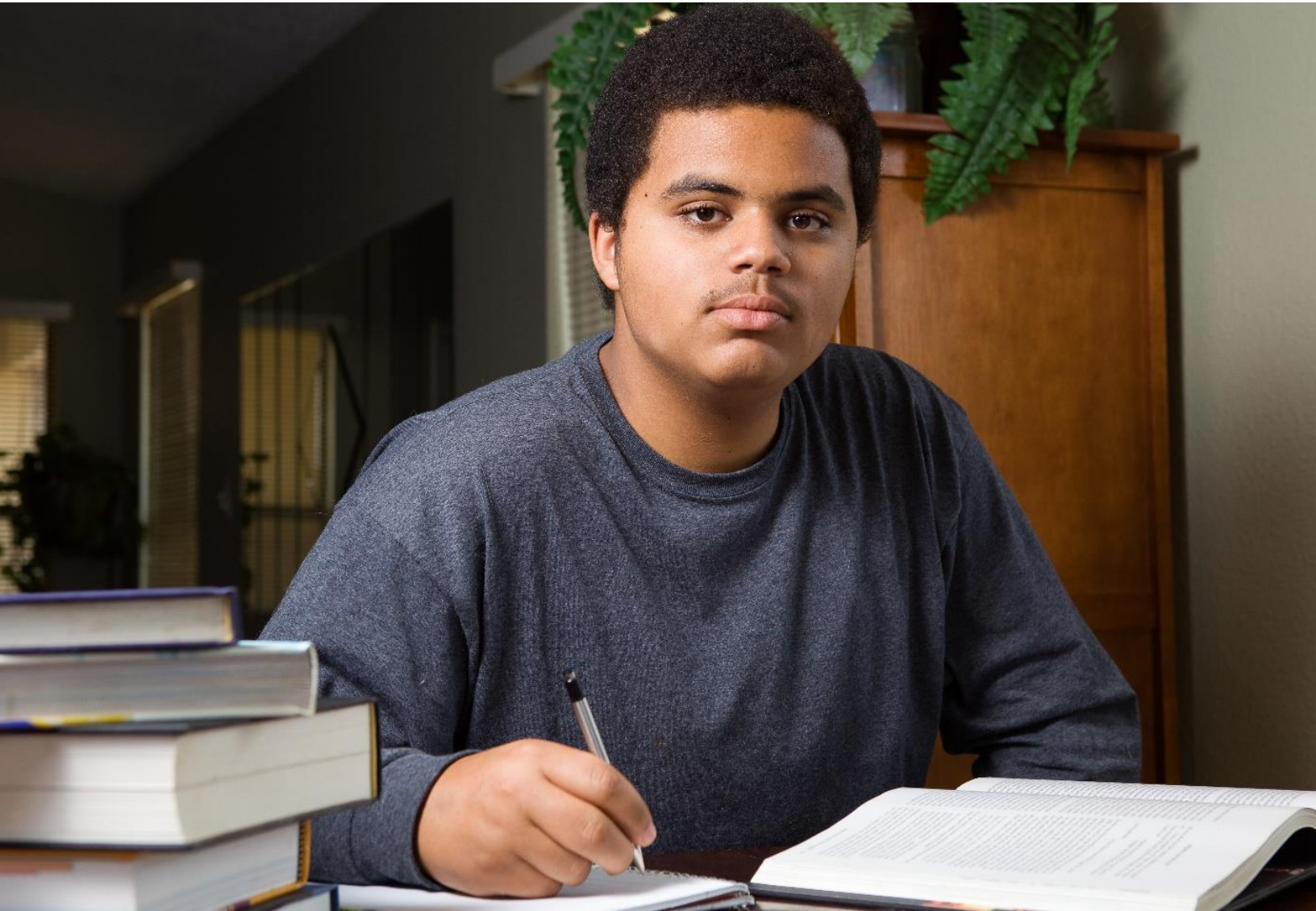
The public should know that even though the social worker is the stand-in for the legal parent (the Minister), it isn't a social worker who has the primary care relationship with a child. It is more often a foster parent, group home staff member, or community support worker.

Many youths told us that their support worker is the most important person in their life. As a youth in care put it, “The support worker actually takes you out and does outings with you. That’s who you’re connected to most.” These are very important roles, mentoring children and youth and taking them out to activities. They are also taking the child or youth to visits with families.

Regional offices of the Department of Social Development voiced concerns that employees only have a one-year post-secondary level of training to work with very challenging families. Youth workers have often told us about situations in which they felt endangered by angry and even violent parents. It is very difficult work. Not surprisingly, Regional offices of the Department of Social Development tell us that they are having trouble finding family support workers and that agencies are finding it harder to hold on to their workers. Family Support Workers and Youth Workers at these agencies tell us things such as, “Guys just quit; they just don’t bother showing up for a shift and they’re gone, and the kid never sees them again.” The recruitment and retention issues for these positions needs thorough evaluation and forward-thinking planning.

There is also an apparent lack of connection at times between representatives of the Department of Social Development and the agencies with which it contracts for youth support workers. An example may illustrate this disconnection. We spoke with a youth worker who detailed disturbing actions by foster parents, and the company for which he works gave him a toll-free number to call to report suspected abuse. The number did not work, and when he asked his manager about it he was told that was the only number. We called it ourselves and it went nowhere. Eventually the youth worker did get to speak with someone in the Department, and was told everyone was busy and to call back later. When he did, again he could not get through to anyone. There is a toll-free number to call to report suspected child abuse or neglect – 1-833-733-7835. If companies that are contracted to provide support services for child protection services and child-in-care services are not provided with accurate information and guidance about what to do in case of suspected abuse or neglect, there is obviously a lack of quality control. The Department of Social Development needs to inform all agencies

with which it contracts for child and youth services that they have a legal obligation to report suspected abuse or neglect, and ensure that these agencies have the proper contact information to do so. At the same time, the Department needs to fix its website; the very first thing on the 'Child Protection' page is wrong, as it states: "To report a suspected case of child abuse please call 1-888-99-ABUSE (1-888-992-2873)" – that phone number is no longer in service. These are only a couple of examples of a child welfare system that is, frankly, messy.



PART 8.
**THE RIGHT TO
EDUCATION**

“Education is our biggest failure as a province for these kids who have suffered so much before coming into care.”

A social worker

“I had to change schools when I went to my first foster home at 13, I lost my best friend and all my confidence.”

A youth in care

“Where the child is in care under guardianship the Minister shall provide care for the child that will meet his educational needs.

New Brunswick Family Services Act, section 45(3)(a)

“It’s important to feel you belong at school.”

A youth in care

Children and youth in care have a right to education, and for this right to be provided in an equitable manner, with necessary supports to accommodate disabilities and trauma-induced psychological challenges.³⁵⁰ These children and youth have the right to education that is directed to the “development of the child’s personality, talents and mental and physical abilities to their fullest potential.”³⁵¹ This right includes the provision of educational and vocational guidance. It includes taking measures to ensure school attendance and avoid dropouts. It includes professionals acting as supports and advocates for children and youth to ensure that any school disciplinary decisions are made in accordance with respect for the child’s human dignity. In essence, this right requires government actors to act as concerned and loving parents would. This ‘parental’ aspect is sorely missing in the lives of too many children and youth in care. We see these children and youth and we see the differences in their lives compared to our own children. Who helps with the homework every day? Who keeps track of educational outcomes? Who makes plans to lift the educational outcomes? These are questions that the Department of Social Development is unable to comprehensively answer.

The lack of knowledge about how children and youth are faring in school

As stated in the Universal Declaration of Human Rights, “Everyone has the right to education.”³⁵² Yet the Department of Social Development has no way of knowing the number of children and youth it has taken into its care who are not in school full time.

The Department does not know, and has no way of knowing, the high school completion rates (or drop-out rates) for youth who have had any type of care status at any point in their lives.

The Department informed us that it could not easily provide, and never did provide, information on the number of children and youth in its care who have been suspended from school or even the number who have been expelled from school.

The Department could not readily provide the number of youth for whom the Minister has had full parental rights and obligations who go on to participate in training or education through post-guardianship services.

We know from our individual case advocacy work that a large number of children and youth in care who go to school spend more time out of the classroom than in it. Social workers know this also. The Department itself does not track that statistic.

We see reports such as *The Educational Outcomes of Children in Care in Manitoba*,³⁵³ which tracks voluminous educational data concerning children and youth in government care. We wonder why our province can't track this kind of data. Here in New Brunswick, educational achievement is simply not tracked in a way that allows the Minister to know the outcomes for children in care. Educational outcomes can improve for children and youth in care, but only if the province understands the challenge. If all child-serving government Departments conclude agreements with the New Brunswick Institute for Research and Data Training (NBIRD), as some have, the province will be able to track educational outcomes for children in care. NBIRD's process allows for anonymous linkages of various datasets. What this means is that the province could link data on children in care to their educational outcomes, as well as health outcomes, criminal justice outcomes, and eventual career outcomes, all without ever identifying an individual. As a start, improving data collection of key educational outcomes of young people in care should be a high priority and a shared one between the Department of Social Development and the Department of Education & Early Childhood Development.

Ensuring that extra educational help is available

Samantha is a New Brunswick youth in grade 10 who says she can read a novel but can't remember what she has read. She says she gets distracted a lot. She has been in care for many years but has never had any assessments done for this problem. These kinds of stories were hard to hear from youth during this review. When children are brought into the care of the Minister of Social Development, they have already faced tragic adversity beyond what any of us want to contemplate. The challenge for these children to then succeed in school is immense.

To provide some context: a US study found that on average, young people in foster care experience PTSD at twice the rate of U.S. war veterans.³⁵⁴ The trauma experienced by children in the government care system impacts cognitive functioning, behavioural self-control and the ability to focus in a classroom setting.³⁵⁵ The harm caused by abuse is well-known, and it must also be borne in mind that “neglect can delay brain development, impair executive function skills, and disrupt the body’s stress response.”³⁵⁶

Children in care have been found to be more likely than the average child to spend less time doing homework,³⁵⁷ be absent due to repeated moves,³⁵⁸ skip school,³⁵⁹ live without a guardian while trying to complete an education,³⁶⁰ be suspended or expelled,³⁶¹ have to change schools,³⁶² repeat a grade,³⁶³ or drop out of school.³⁶⁴ These are vulnerable children, who have difficulty feeling safe anywhere, and feeling unsafe at school is strongly associated with mental health problems for youth.³⁶⁵ Children who have difficulty socially with their peers and have difficulty controlling their negative emotions have poorer school performance; and early interpersonal behaviour patterns are predictive of academic performance as much or more than intellectual factors are.³⁶⁶

The consequences for society of school dropout have long been known, in terms of welfare, unemployment and social services costs.³⁶⁷ Yet New Brunswick’s Department of Social Development does not collect and analyze statistics on any of these risks. Professionals in the education and child welfare systems repeatedly told us that they feel that children and youth in care receive inadequate support considering their complicated profiles. Children and youth in the child welfare system fall behind in their education through no fault of their own. Given the odds against success a child in care faces in their education, it would seem as though much more can be done to offer extra support. We met no one during this review who disagreed with that sentiment.

Children brought into protection and care should not simply survive. They should thrive. Given the situations they have been taken out of at home, it is not surprising that they struggle at school. What is surprising is how little is done about it. As one professional said to us: “I paid for a tutor for my own daughter; it breaks my heart that the government won’t pay for a tutor for its children.” The Department was not able to tell us the number of children and youth receiving tutoring services paid for by the Department. Group home operators must, in accordance with service standards, ensure that “any child requiring assistance with homework receives the necessary support,”³⁶⁸ but what we heard from youth in care did not give us confidence that such help is readily available to all.

Some children thrive in spite of the adversity they face, and they do so due to their resilience. External factors such as positive relationships with adults, feeling connected to school, having support in the community, and participation in recreational activities,

promote resiliency. Educational Services to children should incorporate resilience-building strategies, adapted to the age and circumstances of children.

ACCESS TO EDUCATION FOR CHILDREN AND YOUTH IN CARE

“My principle in one school, she believed me about being bullied, she changed my classes, she saw me, checked in with me, to make sure everything was going okay.”

A youth in care

“I had a teacher who would always come and talk with me when I was emotional. But that was at my last school and I got moved.”

A youth in care

“School is one of the important pillars to become autonomous, but it is a struggle for our kids.”

A social worker

The education of the child shall be directed to the development of the child's personality, talents and mental and physical abilities to their fullest potential.

UN Convention on the Rights of the Child, Article 29

“No one ever tried to get me back into school.”

A youth who left government care at sixteen and dropped out of high school

The barriers to education for children in care

It is well-known that adverse early experiences can have powerfully harmful consequences for the development of the stress response system of a child's brain.³⁶⁹ Studies have evidenced profoundly negative consequences for neurocognitive development in children who face significant chronic stress such as abuse or neglect, or

are living in government care.³⁷⁰ Children and youth in care are feeling the biological impact of trauma. They are disproportionately likely to suffer academically because the biological effects of chronic stress impair their capacities for concentrated attention and memory. One of the reasons that children who have suffered abuse, neglect or other trauma fall behind academically is that the biological effects of chronic stress impair their capacities for memory. When a person's stress hormone (cortisol) is constantly being produced, it alters the functioning of brain systems that influence the ability for emotional regulation and focused attention.³⁷¹ Moreover, traumatized children are more prone to conflict with caregivers, teachers and peers because the biological effects of chronic stress trigger their emotional reactivity and undermine their impulse control.³⁷²

Children and youth who have been taken into government care through child protection generally do not have the kind of parental support in their educational pursuits that most of our children have. Are they doing their homework? Can they? They need a real connection to someone who will know this, and who can help. Dealing with trauma is only one aspect of the challenges these children face that deeply complicate their abilities to succeed in school, though it is a huge one. Another is the problem of being moved, far too often because of lack of available resources. It is not difficult for most of us to get some sense of what moving homes multiple times can do to a child's sense of connectedness to school and the ability of teachers to understand the educational needs of the child. It is also not hard to imagine how difficult it is for a child to keep on track with their studies in class and with homework when they are moved again and again between group homes and foster care placements.

Even without adequate data collected by the Department of Social Development, we know that children and youth involved in the child welfare system often show worse educational outcomes than others. Social workers throughout the province told us that the vast majority of young people in care want to finish school, but that too many of them are not in school full-time. Many social workers questioned the equity of inclusive education for children under the care of the Minister; they told us that they see situations of children in affluent families who are in school full time while children in the care of the Department are not, even when the disability accommodation needs are similar. We met with several children and youth in government care who had lost the provision of an Education Assistant in school and whose academic performance then fell precipitously.

The Department of Social Development does not track the number of children and youth in care who are suspended from school. This is problematic in a number of respects, not least being that these young people cannot appeal their suspensions themselves. A student under the age of 19 must have a parent or legal guardian appeal a suspension for them, and we simply do not see social workers acting in that capacity.³⁷³ In our work we encounter young people who have been suspended from school and then transition

from that to dropping out. Although some youth who drop out manage to return to school and finish, more often we find that youth who drop out do not return. However, it is a testament to the resilience and motivation of youth when we see them coming out of the child welfare system having not completed high school but taking it upon themselves to get a GED. It is impressive.

These are children and youth who deserve all that our society can provide to help foster confidence and pride in themselves. They require support in school. This includes education professionals who understand what life in care can be like and who understand trauma-informed approaches. It also includes the assurance that they will be able to remain in the same school if a change of residence is absolutely required. For Indigenous children and youth, it includes an education system that recognizes the right to learn their Indigenous language in school, and class content that respects Indigenous rights and culture.³⁷⁴

Children and youth in government care also require support outside school. This includes support with academic subjects that are challenging. Tutoring is provided to children and youth in government care if the need is identified in their case plan. Due to the lack of data collected and shared by the Department of Social Development, we have only some examples of tutoring being provided in cases we know of. On the other hand, the Advocate's individual case advocacy has often identified a need where no tutoring has been provided. Literacy interventions have been shown to have positive impacts on brain structure (cortical thickness and structural connectivity), and for children from low socioeconomic status backgrounds this is particularly the case.³⁷⁵ Tutoring for children with math-related learning disabilities has been shown to "induce widespread neuroplasticity" and "remediate brain function."³⁷⁶ Children also need access to recreational pursuits in order to improve their academic abilities in general because, for example, recreational activities such as community-based music classes have been shown to "spark" the neuroplasticity and language development in at-risk and disadvantaged children.³⁷⁷

The Supreme Court of Canada has affirmed in the *Moore* decision that a child has a right to services needed to allow them to learn, even ones only available through private providers, .³⁷⁸ Yet in our work we encounter many schools that are shirking this legal responsibility, and the Department which is supposed to act as a parent lacks the data that would allow them to advocate for these children's rights. This is unacceptable. School performance is one of the most important indicators of how a child is doing. Good parents follow this with interest. It is telling that the Department of Social Development cannot say with confidence that it is meeting the responsibilities of a parent under Section 13 of the *Education Act* – even though the government has legislated these expectations for even the most under-resourced parent. Obviously, government should meet the standards it imposes on others, at a minimum.

Perhaps the most important factor in a successful child welfare system is the existence of supportive adults who believe in the child and work with the child to make plans and set goals for success. This includes having someone who celebrates their successes. The education system has a legal obligation to help develop the child's sense of dignity.³⁷⁹ The child welfare system must also ensure this development of each child's sense of dignity, and must therefore ensure access to supportive adults. The workloads of child protection and child in care social workers can be a barrier to providing such supports; as one social worker who recently left the Department of Social Development told us: "I always had to stop at the protection needs of the child, and I would try to advocate for education needs, but I'd be held back by my work."

Lack of housing stability means changing schools too often

"It is a struggle to keep kids in school."

Social worker

"When a student goes into a group home that is outside the catchment area of their school, Social Development won't pay for their transportation to school – they want the student to change schools. It is really disruptive to their education and socialization."

Education official

"Social Development is not getting kids to school."

Education official [school district Y]

When children and youth are in care there are many service transitions that can disrupt education pathways and learning plans. It can take considerable time to be placed in school after being moved, and children and youth may spend time out of school as a result of changes or disruptions to their placement. A report looking at the effects of school mobility on achievement and dropout in sixteen different studies determined that students who changed schools more frequently had lower achievement in literacy and math, and a greater likelihood of dropping out.³⁸⁰ Children in care tend to have poorer educational outcomes than other children and this occurs regardless of how academically motivated a child in care may be.³⁸¹ In a California study, the dropout rate increased and graduation rate decreased for children in care according to increasing number of placements; children in group homes had the highest dropout rates and lowest graduation rate.³⁸² Transferring schools, especially due to a care placement change, is incredibly overwhelming, as students must adjust to a new environment, new

people, and new curricula. Research has shown that supportive relationships and a positive educational experience help to develop resilience and improve overall well-being, which can lead to higher rates of high school graduation.³⁸³ But frequent school changes also make it challenging for children to develop long-lasting, supportive relationships with teachers and peers.

During our review, youth indicated they should have been given more of an opportunity to develop a good educational experience leading to high school graduation and a job. They realize that educational attainment is a significant factor in obtaining successful employment, and young adults or adolescents aging out of the child welfare system are ill-equipped to compete. Given the staggering difficulties that children coming from situations of severe abuse and neglect face, it is unsurprising that research shows that children involved with child welfare services experience lower rates of high school graduation and entry to post-secondary education.³⁸⁴ Youth coming out of the child welfare system are less likely than their peers to find and keep stable jobs and are more likely to earn less income, even into adulthood.³⁸⁵

Children and youth in care who have disabilities

Children with disabilities in the care system have a right to effective access to education, training, and preparation for employment in a manner conducive to them being able to achieve the fullest possible social integration and individual development.³⁸⁶ A manager in a regional office of Social Development told us: “Children with autism and medically fragile children are often not in school and if they attend, they are certainly not at school full time.”

We met with many foster parents who felt that schools did not understand the needs of children living in their care. We met with a foster family taking care of a ten-year-old with cognitive challenges. He was struggling in school and the foster parents would like to see him have access to an Education Assistant, as this has helped him and the school in previous years. They are frustrated that this service was cut for this child. We met with another foster family who are taking care of a child who is often taken out of class at school. They felt that the system was not providing any services to address the reasons why he had to be removed from class. They worried that eventually this would just lead to him being removed from school altogether.

During this review we met with a twelve-year-old who was about to return to school *for the first time in two years*. He had been suspended pending the completion of a specialized education plan, and the delays had compounded. In July of 2020 the New Brunswick Premier’s Council on Disabilities released an Action Plan that included a call for government to track the following outcome measures, among others: a comparison

of education levels achieved for persons with and without disabilities; the percentage of youth with a disability who are employed or attending post-secondary education within 12 months of graduation from high school; and the percentage of students requiring disability-related supports.³⁸⁷ We would like to see these statistics, and we would like to see them disaggregated for children and youth with disabilities who are also in the custody or guardianship of the Minister of Social Development.

Improving educational outcomes

“High School is the only place that I can feel more freedom. I am doing well in all my classes.”

A youth in a group home

“My relationship with her will last forever.”

A young female graduating high school, speaking about a teacher

“I like math when I understand it, but I fall behind. I got 19 out of 20 on my last test.”

Eleven-year-old boy in care

For educational success, it is simply not effective to have the Minister of Social Development as the legal parent, delegating responsibility for the care and supervision of the Minister’s children to social workers who then place them in group homes and foster placements contracted to handle the day-to-day care, with the hope that each child will then have the at-home educational supports that a “wise and conscientious” parent would ensure. As a 2015 Manitoba report emphasized: “It appears that the solution to improving the educational outcomes of these children is through inter-sectoral approaches: social services and education working together with community organizations...”³⁸⁸

An impressively comprehensive study conducted by the Irish Ombudsman for Children found, among other things, that a stable and supportive environment significantly boosts young people’s motivation to do well at school and to have high aspirations, whereas multiple care placements may disrupt their schooling.³⁸⁹ The study also noted that children in care felt that group home staff can have a significant impact on educational outcomes, and that helping with homework is one simple means staff can use to model a positive commitment to achievement. The report also found that a positive school climate and good relationships with teachers have a significant impact on students’ school engagement, as does collaboration between carers and school personnel. Being connected to school is important for healthy development. Maintaining school stability

and connections to communities are crucially important factors in the wellbeing of children and youth taken into care. If a move cannot be avoided, it is important to ensure opportunities to maintain relationships and connections. What we have found in New Brunswick is that social workers have large caseloads and do not have time to be the diligent daily parent in regard to each child's education. The frequency of group home staff taking on this role is spotty at best.

For the most vulnerable children, school can be a haven – a structured environment with supportive adult role models and positive peers. For children and youth who have suffered abuse and neglect at home, these role models can help to counteract the effects of trauma.³⁹⁰ School is also important in terms of prevention of abuse and neglect, as positive school experiences can act as a corrective to negative family environments, personal safety skills can be learned in schools, and education professionals serve as a lookout for potential child abuse in the home.³⁹¹ For those children and youth already in the government care system, if they feel connected to their school, it is a protective factor against many potential harms including alcohol and drug abuse, delinquency, and self-harm, all of which can be used as 'coping mechanisms' by traumatized children and youth.³⁹²

Throughout childhood and adolescence, positive relationships with teachers are associated with better school outcomes and more positive disposition toward school³⁹³ and when children have strong connections with their schools they are more likely to have success academically.³⁹⁴ In early years, the environments in which children learn have an essential role in their healthy brain development.³⁹⁵ Stimulating childcare environments have been shown to lead to better psychosocial and cognitive function.³⁹⁶

We see students in foster homes and group homes taking on leadership challenges such as running for student government, playing a school sport and being in the school band. Most young people in care need to be motivated, though. The Department of Social Development could create a working group with the Department of Education and Early Childhood Development to develop targeted ways to ensure greater success for children in government care in their education. Too many of these children feel like failures at school.

Certainly, child welfare and education services should collaborate better to minimize educational disruptions for child welfare system-involved youth. This includes appropriate school placement and services, transportation to school for children who have been moved out of the catchment area, and ensuring immediate transfer of necessary information when entering a new school.

And government needs to make greater legislative efforts at measuring the educational achievements of children and youth in its care. Good examples are easily found when looking outside of New Brunswick. In 2015, the US Congress passed the *Every Student Succeeds Act*, which requires states to report graduation rates and academic

performance of school-aged children in government care. It also requires education agencies to collaborate with child welfare agencies to help promote school stability and success for youth in foster care.³⁹⁷

Additionally, people working in the child welfare system – and not only social workers – must help young people develop and navigate their plans for college, university, and career. The child welfare system carries a high level of stigma, affecting successful educational outcomes and opportunities for employment. The system needs to promote opportunities for student leadership, community service, connections with guidance counselors and adult mentors, all of which aid in creating access to post-secondary education and careers. Youth need to access a range of career pathways, including job shadowing and internships, to create on-ramps to employment. The system must facilitate a young person getting a first job. These youth need guidance and practice on how to communicate effectively with a supervisor, boss or teacher. All of these factors are essential building blocks for educational attainment, economic security and housing stability. The child welfare system in New Brunswick currently cannot measure educational achievement of children in the Minister of Social Development's care because it does not collect educational data. Educational achievement should be tracked for each child and youth in care, and data should be aggregated to measure the success of the child welfare system in furthering the maximum possible development of children and youth.



**PART 9. ENSURING
THE HIGHEST
ATTAINABLE
STANDARD OF
HEALTH**

Where the child is in care under a guardianship agreement the Minister shall provide care for the child that will meet physical needs.

New Brunswick Family Services Act, section 45(3(a))

“I’ve had the same psychiatrist for a long time, but I feel like a piece of meat in the process. He takes barely 5 minutes with me and is completely cold; it’s like sitting in front of a wall.”

A female youth in care

“There is a lack of psychological resources in this region – psychologist positions are not filled and there aren’t many people in private practice, so it gets difficult to access these services for our youth.”

A child-in-care social worker

“My issues didn’t end when I turned eighteen – but my health supports did.”

A former youth in care

The Department of Social Development does not know the number of children and youth in its care who have a diagnosed mental health condition. It does not therefore track data on the types of mental health conditions for those children and youth. It does not monitor hospital visits for suicidal ideation or suicide attempts of children and youth in its care.

The Department does not track the number of children born each year identified as being affected by substance abuse, or having withdrawal symptoms resulting from prenatal drug or alcohol exposure.

The Department was incapable of telling us the number of children and youth in its care who have been taken to a hospital emergency room in any given year.

The list of physical and mental health issues of children in care that are not tracked is much longer than we will print in this report. Due to the lack of data government collects, it is impossible to know if the Department of Social Development is living up to its obligation to ensure the highest attainable standard of health for children in its care.³⁹⁸

It has to be said that it seems incongruous that children who are brought into care due to highly traumatic circumstances face barriers to mental health treatment. A student at university in this province can see a counsellor without undue delay and a psychiatrist

often within weeks from referral. Not so for a child or youth brought into government care after extreme abuse and neglect.

It also seems odd that the children of government employees have fuller access to health insurance than children in the government's care. As just one example, our office advocated for a child in care to be provided with alternative medication that had been prescribed by a doctor because the generic medication he was on was causing him heart palpitations. This alternative medication was not covered by the Department of Social Development health plan for clients and was therefore denied, and then denied again after an appeal by the child's doctor. It was not on the list of drugs covered by the plan and would cost \$100 a month, which the Department of Social Development refused to pay. We spoke with the Department of Social Development, and we spoke with the Department of Health. We came to understand the intricacies and complexities of the prescription drug formulary that dictates what is provided under a Department of Social Development health card. But we never understood why \$100 a month could not be paid. In our office we all felt we would pay it for our own children – but of course, we would not have to because as government employees, our government health plan covered this drug for our children.

The right of the child, under article 24 of the UN *Convention on the Rights of the Child*, to the highest attainable standard of health requires more of government than acceptance of an inflexible system. It requires a system designed in accordance with, and with a focus on, the human rights of children, adaptable in every instance to their best interests.

HOW ABUSE, NEGLECT AND TRAUMA AFFECT PHYSICAL AND MENTAL HEALTH

How children are treated in early childhood will impact them throughout their lives. Children who experience severe adversity in early years are at a heightened risk of physiological disruptions that lead to lifelong impairments in physical, emotional and mental health.³⁹⁹ The particular kinds of effects early adverse events may have on a child depend on the timing, intensity, and duration of the exposure to the stressors.⁴⁰⁰ These stressors have a cumulative cost on the health of the child.⁴⁰¹ Children experience “biological dysregulation” not only as a result of active stressors like chronic threat or danger, but also from the lack of nurturing, supportive care on which children

depend.⁴⁰² Victims of child sexual abuse show a decline in their ability to release hormones responsible for stress management, apparently due to over-release of stress regulatory responses at the time when they were exposed to abuse.⁴⁰³ The effects of such childhood chronic stress impact brain development, thinking, memory, learning, and physical health factors such as immune system functioning.⁴⁰⁴

Convincing evidence of higher-than-average mental health issues among youth in the child welfare system was shown by a watershed US study that documented mental health outcomes for youth in the child welfare system over a seventeen year period.⁴⁰⁵ In the data from that study (the National Survey of Child and Adolescent Well-Being), it was found that clinical-level mental health symptoms were present in 66% of the youth aged 11-14 in the child welfare system.⁴⁰⁶ Post-traumatic stress disorder is far more common among victims of child abuse and neglect.⁴⁰⁷ Youth who have been in, or currently are in, care are several times more likely to be affected by mental health issues throughout their lives.⁴⁰⁸

Mental health is the most widely studied aspect of adolescents in the child welfare system. Mental health problems in childhood can have prolonged negative effects, well into adulthood, in relation to overall health and wellbeing.⁴⁰⁹ It has been shown that when children and youth suffer from high levels of stress, they are at higher risk of mental health problems *throughout their lives*.⁴¹⁰ The negative mental health outcomes experienced by these adolescents can even often extend to the next generation.

Conversely, emotional well-being is related not only to higher levels of satisfaction with life⁴¹¹ but with length of life.⁴¹² Emotional health is connected to mental health, but is a somewhat different concept. Mental health relates to cognition and the ability to process information in the brain. Emotional health is a measure of how children handle their emotions and feel about themselves and their lives. The emotional health of a child is “well-established by their first birthday.”⁴¹³ Good emotional health enables children in early childhood to form relationships and explore their environment in security.

A child with poor emotional health is at increased risk of exhibiting aggressive behaviour later in life.⁴¹⁴ Children aged two to three who exhibit physically aggressive behaviours are at increased risk of substance abuse, mental disorder and involvement in criminal activities as adults.⁴¹⁵ Factors that affect emotional health and increase risk for mental disorders include insecure attachment of the child to a parental figure, child abuse or neglect, lack of positive adult support, family violence, family addictions, and negative school experiences.⁴¹⁶ Such factors can be addressed with appropriate supports in order to decrease the risk of emotional and behavioural disorders.

Provision of physical health services to children and youth in care

“Exercise gets rid of my stress. I get to work out here but don’t know if I will when I get back to the group home”

Youth sentenced to secure custody in the youth justice facility

“I like the structure at the group home and we are supported in things we do like trying out for the school basketball team and getting in.”

A youth in care

It is well-established that risks of physical health issues such as heart disease, obesity, and diabetes, are lowered by regular physical activity.⁴¹⁷ Physical activity has also been shown to have significant mental health benefits⁴¹⁸ and children who are regularly physically active have been shown to have better educational outcomes.⁴¹⁹ The child welfare system should have a health strategy for the benefit of all children and youth in care. The current health of these children and youth will impact their future health.

The origins of adult disease are often found in developmental and biological disruptions that occur in the early years.⁴²⁰ People who are at the low end of the social and economic spectrum are twice as likely to contract a serious illness and die prematurely than those near the high end.⁴²¹ When youth leave the care of the Minister of Social Development and the supports of the education system, we too often see them graduate to poverty and ill-health.

Government should provide health insurance for youth who have aged out of care, at a minimum to the age of twenty-five.

Provision of mental health services to children and youth in care

“I want the right therapist – someone who is calm and a child-understanding person. I’d also prefer to see someone here instead of driving 2 hours for appointments.”

A youth in care

“I’ve attempted suicide three times in my life, but I’m not suicidal now, and I’m proud of what I’ve accomplished.”

A female youth in care

“I would have liked to have a family, not staff all my life.”

A physically and sexually abused youth who had been in government care for years and spent many months in hospitals, the Child and Adolescent Psychiatric Unit, a specialized placement, a group home, Peel Centre, the Pierre Caissie Centre, and the youth mental health unit at Restigouche Hospital Centre

“I’m fucked up all the time and nothing seems to help.”

A youth in care

Children too often go on complex journeys in mental health treatment. The stages of these journeys are imposed by processes and services that are designed without the child centrally in mind. Regional offices of Social Development told us they face multiple challenges in attempting to access health services for children in care. They also told us they find that children coming into care today have more complex needs than in the past. This is “challenging to the system of care we currently have,” as one social worker said. Difficulty in accessing services is one problem, and the actual design of these services can be another.

Government has an obligation to take all appropriate measures to promote the physical and psychological recovery and social reintegration of child victims of neglect and abuse; this recovery and reintegration must take place in an environment which fosters the health, self-respect and dignity of the child.⁴²² This obligation is not only one for the Department of Social Development. It requires all child-serving government Departments to act in the best interests of children at all times. This includes the Department of Health and Regional Health Authorities.

When professionals interpret legislation and policies restrictively without good basis to do so, and interpret legislation and policies without reference to international human rights law obligations under the UN *Convention on the Rights of the Child*, it is to the detriment of children. Law, policies and practice standards must be interpreted and actualized to accord with the rights of children.

Access to crisis intervention is also a continuing problem. For example, group home staff cannot contact mobile mental health services directly, but instead must contact police or a social worker to do so. Too often this leads to a police response that can escalate the dysregulation of the young person. From crisis to care there are further barriers, but these have been examined in detail in the Child and Youth Advocate’s review of youth suicide prevention and mental health services – *The Best We Have to Offer*.⁴²³ However, we will note here that new child welfare legislation could be amended to provide increased accountability for ensuring timely and adequate access to therapeutic services for any child with a child welfare care status. Practice standards could also be amended to allow group home staff, within reasonable privacy limits, to be

made aware of recommendations about a child from health and education professionals. Group home professionals in particular are frustrated by the lack of mental health services for the children and youth they serve. They work closely, daily, with children and youth who have been abused, neglected, or abandoned, and whose mental health may be dysregulated to the point of violent outbursts. As one manager stated to us: “Group home staff are getting assaulted and seriously injured because of the lack of mental health supports available to these children.” The extent of the crisis is evidenced in situations such as at one group home where a youth has been under “24-hour suicide watch” for more than half a year – a situation that is heartbreaking for everyone working with this youth, and, as one professional put it, “unfair” for other youth who have to live in the same group home.

Medicalization of Trauma Effects

“We just medicate trauma.”

A child-in-care social worker

“I’m not sure that the antipsychotics I was prescribed were necessary. But I convinced the psychiatrist to reduce my meds and I sleep a lot less of the day now.”

A female youth in care

“Medication is a must for me. It’s not good if I forget to take it, but I’ve learned to control myself and not bother others in class if I forget it.”

A male youth in care

“I expect doctors to know what they are doing. The medication is helpful.”

A male youth in care

The high proportion of children in care who are medicalized with prescription drugs is a matter that has been raised as a concern in numerous jurisdictions.⁴²⁴ The Department of Social Development does not know how many children and youth in its care are taking medication for psychological issues.

Medication can be effective, but counselling alongside it is usually necessary. Studies have shown that a potential negative consequence is that prescribed medication can lead youth to believe that drugs, including narcotics and alcohol, are a good option for addressing mental health challenges.⁴²⁵

The large majority of the youth we spoke with who were on medication believed it was helpful, but several did not. Some did not seem to consider it much, like this youth: “I take medication for sleep, but I don’t know what it’s for because I don’t see a difference if I don’t take it, but I mostly take it anyway.” Others were against it, like this youth: “I was diagnosed with ADD but I don’t like taking the meds. I self-medicated for a while with pot but now I take a natural product that also helps with my anxiety and sleep, and it gives me a schedule and structure that works for me.” Some didn’t understand the medication but found it useful, like this youth: “The doctor decided I needed the meds. I don’t know what they’re for, but I take them – they help.”

Many youths we spoke with during this review felt very strongly that when they are not on medication things are much worse for them. We certainly could not make any claims as to the efficacy or appropriateness of medication for children and youth in care, and we will avoid any broad assumptions. However, we can say that a common issue is that there is no one who provides thorough information about medications to these youth.

A Network of Excellence and a Centre of Excellence for Complex Needs Youth

“We need therapeutic foster care with training as part of the Network of Excellence.”

A mental health professional

In 2019, government announced that a Centre of Excellence for Children and Youth with Complex Needs would be created in Moncton.⁴²⁶ It had been eight years after a Task Force on a Centre of Excellence for Children and Youth with Complex Needs recommended its creation. The Task Force’s report had noted: “We deprive youth of stable relationships, exacerbating their precarious health status, and yet fail to provide them with adequate or secure residential services or clinical supports.”⁴²⁷ This problem remains. However, government’s decision to halt construction of the Centre in Campbellton was, in the opinion of the Child and Youth Advocate, with merit. A Child and Youth Mental Health Unit in the Restigouche Hospital Centre (RHC) provides residential services and clinical supports. There were concerns that transferring that service to the Centre of Excellence for Children and Youth with Complex Needs next door would not add any value. We believe that there is little doubt that the existing unit is primarily, and arguably solely, a diagnosis and treatment facility. That is a very important service. But that is a very different thing than a Centre of Excellence which, by design, would have outreach capacity in providing consultation, support and follow up to professionals responsible for providing care to children and youth in their communities.

Also in 2019, the New Brunswick Ombud released a report concluding that “RHC patients were in fact victims of negligence, abuse, and unacceptable treatment.”⁴²⁸ It did not state whether these were adult or youth patients, as they are housed within the same building. Nevertheless, the possibility that youth were victims was extremely concerning. There unquestionably must be strict controls and oversight to prevent any harm to youth in this facility, but it will continue to operate as a Child and Youth Mental Health Unit. The question became whether it should shift its operations to a Centre of Excellence for Children and Youth with Complex Needs which was already under construction on the RHC grounds. What we felt could definitively be said was that the Child and Youth Mental Health Unit at RHC does not function as a “Centre of Excellence for Children and Youth with Complex Needs.” Still, there is unquestionably exceptional expertise in child and youth psychiatry and psychology at the Restigouche Hospital Centre, and the Child and Youth Mental Health Unit should continue to provide services, working as part of a Network of Excellence.

The fact, however, is that the “Centre of Excellence” as originally envisioned and comprehensively described in the *Staying Connected* report was only meant to be one aspect of a *network* of excellence. As the Task Force report stated in 2011: “We envision a Centre of Excellence which operates throughout the province through outreach at the family and local levels in both official languages, while offering step-up and step-down residential services in secure community-based settings.”⁴²⁹ The Network of Excellence was also a Provincial Government Platform Commitment in 2014. A Centre of Excellence as part of a broader Network has failed to materialize. The Child and Youth Mental Health Unit at RHC operates as a diagnosis and treatment unit, rather than a pivotal part of a broader network, 13 years since the *Connecting the Dots* report made recommendations for a Centre of Excellence, and 10 years since the *Staying Connected* report.

The Centre of Excellence concept is not simply meant to be a building – it is meant to be a hub. That hub did not materialize under the administration of the Child and Youth Mental Health Unit at RHC, and there were no signs that it would. The fact that there must be a focus on research and innovation as an essential aspect of a Centre of Excellence is on its own enough reason to move the Centre to Moncton. The *Staying Connected* report emphasized that the Centre “would monitor leading-edge research” and that it would “work in close collaboration with medical and university researchers here and across the country.”⁴³⁰ No progress to that effect was ever evident. Moreover, there was no apparent coordinated and comprehensive effort made to achieve the other identified goals of the Centre of Excellence such as: clinical supervision of local therapeutic foster homes and residential services; supports to primary care physicians; support to mobile mental health crisis units; supports to Community Youth Justice Committees; clinical supervision and direction to local Autism Centres; guidance and

counselling to families; information and educational services; and advocacy and leading local improvements.

Campbellton as the location of the Centre of Excellence facility was problematic in several respects, not least being the geographic challenge of upholding the right of the child to maintain direct contact with parents on a regular basis when separated from them.⁴³¹ The lack of adequate community collaboration through a true Network of Excellence exacerbated this problem. The disjuncture is apparent in the continuing exasperation from professionals in the child welfare system who see a lack of continuity of care between the Restigouche Hospital Centre and community, with psychiatrists in community making medication and treatment changes after discharge from RHC, without consulting RHC. More importantly, there was a broader failure provincially to take legislative and administrative actions to provide the holistic supports originally envisioned.

After government concluded that there would be no change in the decision to locate the Centre in Campbellton, consultation sessions were undertaken, and the resulting report held promise.⁴³² The vision was respectful of many rights of the child, not least being the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.⁴³³ However, even that vision appeared to be lost as the building began. Considering that construction of the facility was planned for the parking lot of the existing hospital, along with evidence of security-minded decisions being prioritized over child rights, it was apparent that the facility being constructed would have been irretrievably institutional in its tone and mentality. We could not support the creation of an institution to institutionalize children and youth without close community supports. Government's move to stop construction in Campbellton was the correct one. However, the Centre of Excellence is yet to be created in its new location of Moncton. When it is, it must operate through a child rights focus in all its efforts, through commitment to continual performance measurement, and as an independent monitoring agency on the progress of our most vulnerable youth. One of the Centre's roles must be to deliver significant training and support for parents, caregivers and professionals in schools, government and community.

Serious consideration should be given to whether the Centre of Excellence should be governed through legislation by a Board of Experts independent from government, as a Crown Agency, with representatives on the Board from child and youth serving government Departments, both provincial health networks, child development experts from New Brunswick's four public chartered universities, community representatives, the NB Association of Social Workers, The New Brunswick Association of Youth Residential Services, the Youth in Care Network, and, crucially, youth with lived experience of the mental health system.



**PART 10.
STABILITY,
SECURITY AND
PREPAREDNESS
FOR THE FUTURE**

PERMANENCY

'Permanency' is the ultimate goal of the child welfare system. The focus is always ostensibly on securing permanent families for children and youth. Feelings of lack of self-worth plague children and youth in care. When the idea of finding a permanent family is apparently abandoned by the professionals involved in their care, it can easily be viewed as further evidence to the young person that their life lacks value.⁴³⁴

A number of barriers can make it difficult for youth in care to achieve permanency. Social workers tell us that for certain young people in care, such as older youth and those with learning disabilities, it can be harder to find an adoptive family. There is a perpetual problem of finding permanency for older youth in the child welfare system and a pervasive feeling that at a certain point permanency is not possible, but specialized programs that work to secure adoptive families and guardianship arrangements for older youth have been shown to be effective in other jurisdictions.⁴³⁵

One problem with the process is that the participation of children and youth in their own permanency planning is not, in our view, consistent throughout the province. It is absolutely imperative for children and youth who have capacity to be involved in creating and understanding their plans of care. The wishes and the opinions and the ideas of children and youth need to be an integral part of permanency efforts to keep them in their community, to keep connections with family and peer supports, to ensure lifelong relationships with caring adults, to establish developmental milestones, and to determine what supports are necessary.

REFUSING SERVICES AT AGE 16

“Youth leave care at 16 because they don’t have a good relationship with their social worker, and if they ask to change their social worker they will be refused. Youth need some control in their lives.”

A child-in-care social worker

“As soon as I turn 16, I’m out. I don’t want any more social workers.”

A youth in care

“It’s happy sweet sixteenth birthday to you, see you later.”

A community youth outreach worker

It is legally allowable for a youth at age 16 to refuse protection services.⁴³⁶ The Department of Social Development does not track and measure the number of youth who refuse their services when they turn 16, but anecdotally we are informed it is a significant number. Our own caseload also suggests that it is a large proportion of youth in care.

New Brunswick law forces youth to remain in school until they graduate or turn 19, but New Brunswick law also allows them to refuse child protection services (and often effectively become homeless) at age 16. The irony of a teenager sleeping in an abandoned car while still diligently attending school is one of many such true and bizarre stories of youth in this province that we have encountered in our cases. Many professionals, including social workers, have told us that youth have refused services as soon as they turn sixteen because they do not have a good relationship with their social worker. Sometimes they want out because they simply do not like their group home or foster home placement. Sometimes they simply want more liberty. In any case, none of the youth we have known who left care at age sixteen were prepared for their future.

When a youth aged 16-19 has rejected child protection services and has not qualified for or has refused the Youth Engagement Services program, the Department of Social Development should develop and ensure implementation of a multi-disciplinary strategy to continue professional communication with that young person. Youth should always have the option of opting back into services.

YOUTH HOMELESSNESS

“Homelessness impacts the ability of youth to enjoy their sanctioned human rights, and as such, all Canadians have a responsibility to respond to this crisis.”

A Roadmap for the Prevention of Youth Homelessness⁴³⁷

“I have no clue what is happening with my life.”

A youth who left care at sixteen

“It’s an equity issue – the most vulnerable get the fewest services.”

An Education system professional

When given the choice of declining child protection services, teenagers at age 16 often become homeless.⁴³⁸ As stated in the 2018 paper *A Roadmap for the Prevention of Youth Homelessness*, “A critical part of all of this work is elevating the voices of youth with lived experience to ensure their experiences, needs, and desires are reflected in policy and practice.” And further: “This work also necessitates taking a human rights approach.”⁴³⁹

The Canadian Observatory on Homelessness defines youth homelessness as “the situation and experience of young people between the ages of 13 and 24 who are living independently of parents and/or caregivers, but do not have the means or ability to acquire a stable, safe, or consistent residence.”⁴⁴⁰ Youth leaving care are far more likely than average youth to fall into homelessness.⁴⁴¹ As a study of the high prevalence of child welfare system involvement among street youth stated: “the long-term trajectories of children who leave government care are often fraught with social, economic, and emotional challenges, including substance misuse.”⁴⁴²

In other places, unlike provincially in New Brunswick, data is tracked so that the problems associated with youth homelessness can be seen and acted upon. For example, in the United States, it is known that between 11% and 37% of youth leaving government care experience homelessness, and an additional 25% to 50% percent are unstably housed. This is according to the U.S. Department of Housing and Urban Development.⁴⁴³ This finding aligns with what our office sees anecdotally with New Brunswick youth in unstable housing. New Brunswick, however, frankly has almost no statistical knowledge of the extent of youth homelessness or the dangers it entails. It is well-understood, though, that youth exiting the government care system are at heightened risk of homelessness. One study from California found that more than one-third of 19-year-olds leaving care experienced homelessness and more than 40 percent couch-surfed.⁴⁴⁴ A 2016 study in Washington State found that 28% of youth experienced a homeless episode within 12 months of aging out of government care.⁴⁴⁵

Research undertaken in Toronto conducted on behalf of Justice for Children and Youth demonstrates that street children experience very high levels of victimization.⁴⁴⁶ Based on a 2002 Ontario study, “45.7% of street youth reported being attacked in the past year, as compared to 6.3% for their non-homeless peers”.⁴⁴⁷ This contributes to an increased mortality rate amongst homeless youth, with current rates of mortality 40 times higher than rates for average youths in Canada.⁴⁴⁸

While New Brunswick’s government does not provincially track how many youth are sleeping in streets or in outdoor shelters, moving from one couch or floor to ‘crash’ on, or living in exploitative arrangements with unrelated adults, community organizations do work strenuously to shine light on the problem. A survey during a one-day count in Fredericton, Moncton, Saint John, and Bathurst in 2018 found that 30% of homeless

people had been in either a group home or foster care.⁴⁴⁹ The survey, conducted by the Human Development Council in Saint John, found that “Of those who indicated having been in care, 37% indicated that they became homeless in the first year, and 20% in the first 3 months, after leaving foster care or a group home.”⁴⁵⁰

Youth living on the street are often of populations that are already more vulnerable to discrimination and violence including: LGBTQ+ youth, Aboriginal youth, and those who have been poorly educated.⁴⁵¹ These vulnerable groups, through homelessness and desperation, are often more likely to end up in the sex trade or drug trade, creating a discriminatory impact due to the lack of social security created by the state.⁴⁵² The 2018 survey of homelessness in New Brunswick found that 17% of respondents identified as LGBTQ+.⁴⁵³ Of those surveyed, 22% were aged 16-24.

The Human Development Council in Saint John has created a strategic framework to end youth homelessness in that city.⁴⁵⁴ Part of that framework calls for coordinated work between stakeholders and child welfare services. In our Office’s advocacy experience, homeless youth have often had connections with the child protection system in their early years, and often have been brought into care for periods of time. They have often dropped out of school. They are unlikely to know how to access social supports or health services. They are in danger of being exploited sexually or brought into criminal activity. They are at high risk of drug addiction. Youth shelters exist and play a vital role, but there is a lack of safe spaces in the province for homeless youth to find shelter. Moreover, some shelters find they do not have the capacity to handle youth with complicated mental health needs, and therefore those youth cannot access a shelter.

It may strike members of the general public strange that a teenager being homeless is not a matter for child welfare services. Requests by two teenagers to be taken into the care of the Department of Social Development rather than receiving financial assistance and living in a youth shelter were denied by the Department. The decision was overturned once our office advocated on their behalf, but we are a small staff and cannot possibly be aware of all the needs of individual homeless youth in this province.

We do encounter these youths in drop-in centres and other places, but we do not know their numbers. There is a lack of safe spaces in the province for them to find shelter. Many young people are in the midst of major physical, cognitive, social, and emotional development and have not acquired the personal, social, and life skills that make safe independent living possible. They have no conception of their rights. The point is very well made in *A Roadmap for the Prevention of Youth Homelessness*: “If the prevention of youth homelessness is to be grounded in a human rights approach, we must consider the positive obligations of governments and communities to ensure the rights of youth are protected.” In that respect, the *Roadmap* recommends the creation of a statutory duty to assist, thereby creating a legal duty that requires government to make reasonable efforts to end any individual youth’s homelessness and to stabilize their

housing. This statutory duty must go beyond simple referral of a youth to an emergency shelter or other services that do not help them exit homelessness rapidly and in a sustained manner. Such legislation must make youth homelessness prevention a legal responsibility with defined roles for government officials.⁴⁵⁵

The United Nations Committee on the Rights of the Child voiced its concerns about homeless youth in Canada in a report twenty-one years ago, and yet Canada still has no accurate measure of numbers of homeless youth.⁴⁵⁶ The rate of children seeking refuge in transition housing in New Brunswick is 2.6 per 1000 under age nineteen, but this statistic does not reflect youth homelessness.⁴⁵⁷ It is a rate that includes youth who access one of the few youth shelters in the Province, but it also includes children who may be with a parent in a transition house for victims of domestic violence, and it does not reflect the rate of youth who lack a safe place to stay and don't access a shelter. In 2017 the United Nations Committee on the Rights of the Child produced a guiding document for governments to uphold the rights of children in "street situations."⁴⁵⁸ The UN Committee recommended that "In partnership with academia, civil society and the private sector, [governments] should develop systematic, rights-respecting, participatory mechanisms to collect data and share disaggregated information about children in street situations."⁴⁵⁹ The Committee also made clear that "For those children in street situations without primary or proxy caregivers, the State is the *de facto* caregiver and is obliged, under article 20, to ensure alternative care to a child temporarily or permanently deprived of his or her family environment."⁴⁶⁰

A persistent problem is the way in which some youth who are without a family environment fall into gaps in services, with no one government Department taking full (or sometimes any) responsibility. Addressing youth homelessness requires access to social welfare supports, mental health supports and educational supports; when young people are without a safe space to live and are at risk of serious health detriments, sexual exploitation, drug addiction, and violence, it is not a valid response to say that they don't fit into a particular government service (the Youth Engagement Services Program that replaced social assistance for youth is a wonderful program, but only for those who qualify, and presently that does not include all homeless youth). Positive role models and supportive relationships are protective factors that have been shown to be associated with lower risk for depressive symptoms and anxiety in homeless youth.⁴⁶¹ Safe spaces and self-esteem-boosting programming to help youth access other supports and transition to stable independent living can provide the environment for such relationships. Depending on where a young person is in the Province, they may be able to receive transitional housing services operated by a not-for-profit organization, but the extent of youth homelessness remains unknown. A comprehensive Child and Youth Strategy, as recommended earlier in this report, can help to fill this knowledge

gap. But a targeted strategy with actions to address youth homelessness is also required.

MORE THAN A FILE

Hannah was hospitalized following suicide attempt at the age of 17. Her parents showed little concern. They did not follow up with picking up medication and they did not go to hospital to sign admission forms. Hannah was asking to be placed in the child welfare system, but the Department of Social Development refused this as an option, stating two reasons, both of which were, in our opinion, unacceptable. The first reason was that Hannah's parents were accepting to take her back. The second reason was Hannah's age. Under the law, child protection services are available until the age of 19, but the Department seemed to choose convenience over legislation in this situation. Hannah returned to live with her father and was brought back to hospital several times. Eventually, the hospital did not want to release her to father's care because of his perceived inability to provide adequate support. Hospital staff, school professionals, and the Child & Youth Team all expressed concerns to the Department of Social Development, and we advocated for Hannah. They eventually agreed to accept her into child protection and find her a secure placement, where she now resides. This case was resolved in Hannah's best interests, but the difficult process raises serious concerns.

YOUTH ENGAGEMENT SERVICES FOR YOUTH AGED 16-19 NOT IN THE CHILD WELFARE SYSTEM

"We are very proud of the Youth Engagement Services program; we see big improvements compared to the past. This was an age group really at risk and we are now able to offer them much more."

A Regional office of Social Development

"My workers cared about me and were always there when I needed them. They were amazing"

A former youth in care who received Youth Engagement Services

“Kids are being presented with the option of Youth Engagement Services at 16 and being persuaded to go that way instead of staying in care, but government denies this happens.”

A child-in-care social worker

“I really feel like young people are being screwed out of guardianship protection by this program.”

A child-in-care social worker talking about Youth Engagement Services

“My social workers have been my biggest supports in my group homes and now that I’m living on my own my YES worker is. She is always positive and she helps me achieve my goals.”

A youth in the Youth Engagement Services Program

Parents are responsible for the care and supervision of their children until they reach the age of majority which, in New Brunswick, is presently 19 years of age. When a parent is unable or unwilling to fulfil this obligation to a child, there exist a range of options to provide alternate care and supervision of the child either within their extended family network or in the public care system. Through a referral to the Department of Social Development a homeless youth may be assessed for child protection services, including kinship services, or placement in a foster home or group home. A youth may be offered child protection services (although this often appears unlikely), but a youth 16 years of age or older may refuse child protection services and be immediately considered for Youth Engagement Services. Child protection workers told us they have little luck engaging those aged 16 and over in protection services, and therefore the Youth Engagement Services (YES) program fills a gap.

Youth have a right to benefit from social security, including when living out of the home on their own.⁴⁶² The Youth Engagement Services program provides funding to eligible youths (those who cannot remain in the parental home due to abuse or neglect) for housing and living expenses, while providing supports to help these youths succeed.

Overall, professionals we spoke with think that this is an excellent program, and it continues to be improved to respond to problems that have been identified by youth and those advocating for them. Most youth who have been through the program also felt it was very helpful, and most echoed the sentiment of one youth who stated, “There was nothing about it that I didn’t like!” Nevertheless, many homeless youth we have met with are unaware of the existence of the program, while others are unwilling to engage with

the Department of Social Development, and others were unable to access this program because the Department did not feel they were victims of neglect.

We see how YES social workers go out of their way to engage youth and keep in touch with them. This is certainly reflected in the feedback from most youth in the program provincially, which is by and large very positive. As with any area of the child welfare system, though, there is inconsistency in application and professionals are incredibly busy, leaving little time for the system to share knowledge and provide robust training.

The Department's website has one page describing in brief the eligibility for and description of this program. This is useful information. However, the public should be able to know how its money is being spent. Practice standards should be available online. Furthermore, the Department of Social Development was unable to provide numbers for how many youth *refuse or are refused* Youth Engagement Services.

Youth Engagement Services is a highly supportive program for those who can access it. For those who cannot, the child welfare system provides no protection. When a sixteen-year-old whose first language is neither English nor French was left behind by her family who moved out of the province, she did not qualify for services because the Department of Social Development did not view this as parental neglect (as the 16-year-old had chosen not to go with her family). Whether or not one finds it strange that parents can abandon their 16-year-old child without this being considered neglect, the fact is that there was no other government support available for this youth when Youth Engagement Services were denied. This is an example of a problem that plagues every aspect of the child welfare system in New Brunswick. Regardless of whether or not decisions are in accordance with practice standards, the bigger problem is that there is no other service to refer to. Only dead ends.

The Youth Engagement Services program, like all child welfare programs, needs more data collection and accountability. It also needs to be better communicated to people working with youth both within and outside government. It is not a well-functioning system when professionals are not made aware of it. For example, youth detained or incarcerated at the New Brunswick Youth Centre (NBYC) were originally deemed ineligible for admission to Youth Engagement Services. The Department changed its position and allowed these youth to access the service, but did not inform the clinical team working with youth at NBYC of this change. During our review, many professionals in many government services bemoaned this kind of difficulty in discovering how various child welfare programs work. The common complaint was that the Department of Social Development works in isolation from the rest of government. Equally troubling is that we found that even within the Department of Social Development, such information is not communicated effectively. As one child-in-care social worker said to us: "We were told youth could not apply for YES program while at NBYC. They can?"

Another common complaint of the program is that Child Protection Services acts as a gatekeeper to the program, and a youth – whether they are at a homeless shelter, couch surfing, or living on the streets – must be deemed to be the victim of abuse or neglect at home for the file to be ‘screened in’ and forwarded to Youth Engagement Services staff. We feel that the threshold of what the Department considers ‘neglect’ is often set too high, preventing youth from accessing supports. More importantly, we question the legitimacy of requiring this condition before helping youth who have no home.

The Department of Social Development is collecting feedback from youth when they age out of this program, and we hope to see continuing improvements based on the input of these youth. However, the Department does not collect any information from youth turned away by the program. As this report goes to print, we have learned that these social supports are not available to youth who are not permanent residents or citizens of Canada. We question what budgetary concern could possibly justify not providing these supports to immigrant youth aged 16-19 who cannot live at home due to abuse or neglect.

RECOMMENDATION 17

Government should develop and adopt a holistic and long-term strategy and make necessary budget allocations for children in street situations, including an outreach function, to go to the youth where they are.

Youth Engagement Services must be protected in legislation with legally guaranteed access for all youth aged 16-19 to counselling, education supports, drug treatment/rehabilitation programs, and employment guidance.

ADOPTION

“We have no provincial vision to improve the recruitment of adoptive families.”

A Department of Social Development Regional Supervisor

Managers in Social Development told us that the number one issue in the child-in-care system is adoption, and that it is extremely important for children and even for older youth. Yet the Department of Social Development was incapable of telling us the number of children with a guardianship status who have been adopted each year. The number of adoptions that break down wherein children are returned to the government care system is also unknown, as are the reasons for the breakdowns. The Structured Analysis Family Evaluation assessment tool designed to evaluate those looking to adopt has been in place for several years and yet the Department of Social Development could not provide information on any audits and lists of statistics used to measure the effectiveness of this program in New Brunswick. In short: there is a huge information deficit.

Social Development Regional Supervisors told us that they have many children aged 3-4 who want to be adopted, but these children have complex needs. Children in care already show fairly serious symptoms of trauma and symptoms associated with mental health problems from this very young age. It inhibits the willingness of families to adopt.

Another challenge is that there are also often multiple children from one family brought into care, and very few adoptive families want to adopt sibling groups. There are always people who want to become adoptive parents, but the majority of these only want to adopt babies, and usually only one.

As a result, social workers often hesitate to talk openly about the possibility of adoption to youth aged 15 and over in the care system because they are afraid of creating expectations that will not become reality. Many social workers tell us that after age 12 it becomes very improbable that a youth will be adopted. A survey conducted by the New Brunswick Adoption Foundation found that less than 15% of adoption applicants were open to the idea of adopting teenagers.⁴⁶³ One youth we spoke to told us how one of her teachers was interested in adopting her but that the social worker “never followed through with it” even though the youth said of this teacher “She was a great influence on me; she was a really important person in my life.” While obviously if a teacher truly wanted to adopt then a process would be initiated, what struck us was how this young girl did not understand her own situation and did not have anyone to explain it to her. A

comprehensive and detailed strategy to promote, and increase the number of, teenage adoptions is necessary. This should include factors such as working closely with teenagers in adoption family recruitment, ensuring that supports are in place before and after adoption, and being realistically flexible about what constitutes a successful adoption.⁴⁶⁴

The not-for-profit organization New Brunswick Adoption Foundation (NBAF) was incorporated with a mission to promote adoption of children and youth who are under the guardianship of the government.⁴⁶⁵ The NBAF works with community groups and individuals to further its mission. Their programming is an invaluable asset for prospective and post-adoptive families. The organization promotes adoption and also provides supports and resources to help adoptive parents with matters such as trauma-informed parenting, self-care, and understanding diversity and disability needs. The NBAF is an assurance that before and after adoption, parents are connected with a community of other adoptive parents. The Foundation's NB Adoption Support Network provides both one-on-one and group peer support, hosts support groups, coordinates workshops, and connects parents with other community supports.

The Department of Social Development supports the work of the New Brunswick Adoption Foundation, and it is hard to imagine adoption in the province functioning without the NBAF. Regional supervisors at Social Development are also happy that the Wendy's Wonderful Kids⁴⁶⁶ program has arrived in the province, to help institute best practices in achieving adoption for older youth. Social Development professionals are also happy to have access to new NB Adoption Network Coordinators to help them attract more adoptive families, but they are still not very hopeful that the situations will change for most of the children and youth in care in the short term, or even the long term, without a change in how members of the public view adoption and a change in how the Department manages the process. The Department's support of the NBAF is not apparently without limitations, however. As an example, we have been informed that the Department of Social Development denied a request from the NBAF to view the practice standards for subsidized adoptions. In our view, such practice standards should be available to *all* members of the public. These are the standards by which *civil servants*, as representatives of *public authorities*, carry out their work in the *public interest*.

Other challenges also persist. For example, one region told us that they have many young people who do not want to be adopted. There can be many reasons for this. Some social workers lamented the fact that judges were including access to biological parents in adoption orders, as the social workers feel this is an impediment for children to find permanency. Of course, for some youth, they choose not to be adopted because they want to maintain contact with biological parents.

There are many barriers imposed by the child welfare system itself. For example, youth who remain in government care have access to a number of resources such as post-secondary education funding and therapeutic services. This creates a bizarre situation in which some youth in care prefer not to be adopted because they want their university education funded. In November of 2019, the New Brunswick Youth in Care Network held the New Brunswick Youth in Care Hearings at the Provincial Legislative Assembly. The Network previewed some of the recommendations it would be formally making to government, and one was that children aged 12 and over who are adopted should still have access to funding for post-secondary education.⁴⁶⁷ Social workers and supervisors in the Department of Social Development agree with this – at least we have never encountered any who do not. The Department has not made a change.

Beyond the perennial challenge of promoting adoption for children in government care, we are informed by those in the field that the pre-adoption processes lack consistency across the province. The New Brunswick Adoption Foundation conducted a survey in 2016 of the pre-adoption process.⁴⁶⁸ People considering adopting a child over the age of two from foster care were asked about the length of time of various aspects of the process, as well as willingness to adopt children of various ages and abilities. For the largest cohort of survey respondents (36%) who had adopted, the adoption process took more than 4 years. For more than half (64%), it took more than two years to adopt.⁴⁶⁹ For many other prospective adoptive families, the process was abandoned.

For those families that do complete the adoption process, post-adoption support is crucial. As we heard: “Families are overwhelmed, given the journeys their children have had.” And further to that point: “Post-adoption subsidies and the support of NB Adoption Foundation is great, but cannot meet the overwhelming needs.” In regard to therapeutic services, some families have access to a post adoptive subsidy that provides for some services to children they have adopted, but these services are generally less than the support provided when the child was in government care. The Department of Social Development should be tracking data on the challenges faced in post-adoption, examining the causes, and developing new strategies based on the evidence.

RECOMMENDATION 18

The Department of Social Development should conduct a review of adoption processes amongst the various regions of the Province to ensure consistency, and to create a process to ensure regional collaboration and sharing of best practices.



PART 11.
**SUPPORTING YOUTH
TRANSITIONING TO
EARLY ADULTHOOD**

“When I leave here, I’ll be alone. Those who stay with their parents have their families to help them; I will not have that.”

A Fifteen-year-old in government care

The Department of Social Development has no idea of the number of youth who go on social assistance when they ‘age out’ of care. We were told it would take an estimated 105 hours of solid work to just to find this statistic. This may surprise some members of the public, as both child-in-care services and social assistance are branches of the same Department. Nevertheless, there is virtually no data collected on what happens to youth after they age out of care, including in relation to continuing education, training, and employment. The province knows almost nothing about the young adult lives of those who were in their care.

Once again, we have to compare this unfavourably to what a conscientious parent would know, and to what government demands to know in other policy areas. Government regularly commissions surveys of university and college graduates five years out of graduation so that it knows it is getting value for its investments in post-secondary institutions. Loans and grants to private companies are tracked so that employment numbers are known. Government often measures the return on investment very closely. In its most recently reported fiscal year, government spent \$155 Million on child welfare services.⁴⁷⁰ Despite this significant expenditure on children who government itself is supposed to care for as a parent, government does not know even basic things like graduation rates, homelessness rates, and employment rates for its own children. This incuriosity is indefensible.

What we do know from developmental science is that females reach the halfway point in brain development just before the age of eleven. Males do just before the age of fifteen. Females only reach full maturity in terms of brain development between the ages of twenty-one and twenty-two, while males typically do not reach this point until nearly the age of thirty.⁴⁷¹ Ending supports at the age of nineteen, as the New Brunswick *Family Services Act* provides, is therefore not in step with science.

AGEING OUT AT 19

“I find them to be alone, even before they are independent.”

A group home worker

“No exit interviews are done with young people. That’s a failing in our system.”

Department of Social Development Regional Supervisor

“Access to social, legal and health services, together with appropriate financial support, should also be provided to young people leaving care...”⁴⁷²

United Nations Guidelines for the Alternative Care of Children

When a young person ages out of the legal protection of government care at age 19, or leaves care earlier for any number of reasons, they usually have no supportive family relationships. They are less likely than their peers to graduate from high school, continue to postsecondary education or professional training, and less likely to find employment. They are at high risk of becoming homeless. Young people need to have a supportive and continuing network of adults and peers before they leave care.

Any parent knows that their responsibility to their children does not stop suddenly at age 19. Even young adults who have had an ideal childhood often rely on their families for guidance, advice, financial and housing stability, and life skills as they transition to independent living. That we would expect the transition to be easy for children who have not had stable family relationships is simply not logical or compassionate.

Some youth exiting care had no real understanding of what the process would be for them to transition to independence, or even the role their social worker might have in that process. Exit interviews are not mandatory for youth leaving care, and they are therefore rarely done. We are told that in some regions, in the last meeting with a youth before they are no longer under the care of the Ministry, they are asked if they have any comments or suggestions to make to the Ministry – but the young people do not say much. There is an exit questionnaire, but it is not a source of impactful feedback to help improve the system.

Group home staff told us that they see youth experiencing a lot of stress related to the transition to adulthood. They also told us things such as “there is a lack of cooperation between the youth and adult branches of Social Development; when youth age out they

are often left on the street without supports from SD, we see this almost in every instance.”

These professionals see that these youth do not know what to do as they age out of care, and they think the youth should have a transition service to accompany them into their independent lives. As one nineteen-year-old told us during this review: “I still need help.”

THE NEEDS OF EARLY ADULTHOOD

“My most painful experience in 16 years in care was leaving my third foster home. That home felt like family; I felt like their child. If I could I would go back.”

A former youth in care

The concept of ‘emerging adulthood’ is about the gradual transition young people make as they move into adulthood from roughly age eighteen through twenty-five. This process is marked by gradual independence in residence, finances, education, employment, and other ‘adult’ activities.⁴⁷³

For youth in government care, a survival focus can overwhelm cognitive capacity. Their situation hampers their ability to develop the capacity to control impulses, calibrate risks and rewards, regulate emotions, and think of future consequences of actions. They need to be prepared to make decisions for themselves, and the safety net of emotional support of family is not there for most of these young people. After the age of 19, no one is any longer legally responsible for their wellbeing, yet they need support.

A young person’s brain continues to develop into their mid-twenties, as the capacities for connecting socially and emotionally with others, as well as thinking, reacting and planning rationally are still emerging.⁴⁷⁴ Developmental milestones required for the transition from adolescence to adulthood include developing a personal sense of identity and a value system, establishing stable relationships, managing to control one’s behaviour in a reflective and mature manner, and being able to contemplate future goals.⁴⁷⁵ Developing a sense of purpose is also essential to development – the desire to accomplish something personally meaningful. Adolescents require support from adults to achieve this developmental goal, as their sense of the future is developing.⁴⁷⁶ The

primary developmental effort for adolescents is establishing a balance between connection to others and the autonomy required for independent living.⁴⁷⁷

The vulnerability of youth does not suddenly disappear at age nineteen. At that age a young person in many ways becomes more vulnerable, due to the threats of housing instability and poverty.⁴⁷⁸ Youth exiting government care also too often face a future with a lack of a strong social network and in particular the presence of a stable, caring adult. Youth leaving care at age nineteen still need support. They need genuine connections to programs and mentors in their communities. And they need resources to help them become independent. Such supports should be created and made easily accessible by government.

INDEPENDENCE

I didn't go to college in the fall because I didn't feel ready. I am still terrified. I am terrible with money, I have a hard time counting money, I always worry I won't have enough so I feel like I need to have the money in my hands instead of having a debit card. I've only been grocery shopping once with my support worker in the independent living program. It was fine but I'm not used to doing this. I'm worried too that I don't have an apartment yet. I'm going to be going to college next fall to study in early childhood education and business, and then I hope to open my own daycare."

Eighteen-year-old female exiting government care

"When a child who has lived in the system their whole life becomes of age, does someone help them get a place for themselves or even a job?"

Question from a member of the public

"The system hasn't prepared any of us for this. I have prepared myself (budget, laundry, cooking). I feel confident in moving out."

Fifteen-year-old male youth in a group home

I'd prefer to live with a full-time foster family than to live in an apartment by myself, but I can't live in a group home anymore.

Seventeen-year-old female leaving care

Youth begin early to worry about their lives after care, long before they turn nineteen. Social workers tell us that teenagers in care want more freedom but growing up in government care leaves them unprepared to live independently. “Transitioning” to adulthood does not just happen. It needs to be planned and supported. Life skills don’t magically materialize at age nineteen. We know that there are programs and supports to develop such skills, but youth still almost invariably tell us that they haven’t had the opportunity to learn them. They are not ready for finding a home and dealing with landlords, job searching, career planning, money management, grocery shopping, cooking and all the other daily tasks of adult life. Just as important are personal and social skills such as self-care, general communication skills, interpersonal relationship skills, parenting skills, and learning how to access community services. The determination of these youth in the face of multiple obstacles is amazing. Many young people felt the system did not prepare them for independence, yet they remained determined to succeed in spite of this. It is hard to understand how a youth in care has to pay for things such as driving training and licencing fees, but it is impressive to hear statements such as this from a youth in care: “I’m going to do the [drivers’ licence] test when I get paid next from my job.” Something as simple as learning to drive is an important developmental task for establishing independence, and it should be facilitated by government as legal parent of these youth. The ‘Keys to Independence Program,’ which started in Florida, helps provide youth in government care access to driver’s education and the opportunity to earn a driver’s license. There is no reason why a similar program could not exist in New Brunswick.

In some group homes and foster homes there is a commitment to teaching these essential life skills. We would like to see it be the norm. As one youth said to us, “I was spoiled when I was in group homes. I didn’t learn to cook and didn’t need to help do the dishes.” It is a common challenge for child-in-care systems to provide adequate opportunities for youth to develop skills that will set them up to be autonomous individuals as adults.⁴⁷⁹ But we should not have had to hear comments such as this one from an eighteen-year-old in care: “I had no help from my social worker to find a job. I did it myself.” Youth in care require more than minimal supports; they deserve a better life. These are the Province’s children, and society needs to ensure that these young people become independent, successful adults – government has that responsibility as our society’s representatives.

Acquiring skills to live independently must be an ongoing process prior to the youth’s departure from care. Research has long shown that when independent living programs provide a multi-year period to develop life skills, they are successful; high school graduation, employment and self-sufficiency for youth in and exiting care are more likely when youth are prepared for independence through structured programs.⁴⁸⁰ We are

concerned that attempts to prepare youth to exit care happen too late and are not robust enough.

It is apparent that most 19-year-olds are not fully functioning independently self-sufficient adults. Most of our children when they turn 19 continue to need our support. It would be unrealistic to expect children who have been taken from their homes in severely traumatic circumstances to grow up facing uniquely difficult challenges in a government system, to then be able to abruptly manage what most 19-year-olds cannot.

Young people who have experienced trauma often struggle and require significant supports in their transition to adulthood.⁴⁸¹ Research has shown conclusively that the areas of the brain governing reasoning and rational decision-making do not fully develop until into one's mid-twenties. Young people are therefore more likely to rely on the emotional area of the brain to make decisions, leading to difficulties controlling impulses, negotiating social relationships, and considering future consequences of actions. "Wrap around" service to support physical, mental and emotional health is essential. These services must be comprehensive, coordinated, and community based. The transition to adulthood is a key point in which young people require this type of holistic support.⁴⁸²

Some children and youth talked with us about social workers who were hard to reach. Many felt that social workers did not care about them, and only worked with them because it was a job. We know this complaint is contentious, but it is how many of these young people feel. We also know that social workers almost invariably are highly skilled and have the best intentions. In our experience it is very rare to find a social worker who seems not to care. It is almost unheard of. We believe that the way in which the system functions creates this perception of lack of care. It does this by being difficult for the young person to understand, by being full of rules, by constructing barriers to human contact, and by preventing honest, frank communication.

The importance of autonomy

Memories are more deeply imprinted on our brains during our teenage years.⁴⁸³ Therefore, the habits and thought patterns we develop in adolescence deeply shape our identities throughout adulthood. Opportunities for self-reliance are therefore crucial at a young age. The protective aspect of the child welfare system and the institutionalized aspects of 'care' lead to lives wherein these youth lack autonomy. Their lives are more regimented than the average youth, and decisions are typically made for them, often without their input. Yet when they age out of the care system, young people are often suddenly and completely left to their own devices, without having had sufficient opportunities to build necessary life skills or experience self-reliance.

Child safety, permanency, and overall well-being are extremely important. But well-being for adolescents includes the liberty and agency to develop their identities and shape their own futures. And it includes risk-taking. The kinds of supports that teenagers in the child welfare system require differ markedly from the protective cocoon required by the developing child. The issues that are of concern to adolescents in the child welfare system are not so much the need for protection as issues related to maintaining their own physical and mental health, avoiding further victimization or harms such as homelessness, and managing an uncertain future.⁴⁸⁴

The neurobiological research evidence is that young people can evaluate risks as well as adults. The difference is that for adolescents the intensity of dopamine (the pleasure chemical) flooding the brain often outweighs consideration of potential negative outcomes.⁴⁸⁵ Care providers can help to assure a safe environment for taking risks that meet adolescents' developmental needs. Youth transitioning out of care also need to be allowed to make mistakes as they navigate their way into adulthood.

Teenagers are capable of far better problem solving than children are. They have greater rational-thinking capability, better understanding of cause and effect, and more ability to consider future consequences and contingencies. In a word, they are more mature, and their developing maturity must be taken into account in involving them integrally in all planning for their futures. They should also have the lead role in decision-making about their education, residential situations, and health care needs. They should be engaged by professionals with respect for their capacity.

The United Nations Guidelines for the Alternative Care of Children states that "Special efforts should be made to allocate to each child, whenever possible, a specialized person who can facilitate his/her independence when leaving care."⁴⁸⁶ We would like to see a social worker assigned to each young adult leaving care, to provide ongoing help to access supports.

Financial security for youth leaving care

"I felt ready for adult life except I was very afraid about money, having enough money to pay the rent and eat – I think it would have been good if I had a job before Social Development stopped subsidizing me."

A nineteen-year-old who has aged out of care

"I didn't have money to buy anything when I was in care, and now I feel like when I don't have a job, I can't get any money."

A youth who has left care

“Stop treating these kids like expenses for cost-cutting when they turn nineteen. Start treating them like your children.”

A social worker

Many young people in New Brunswick receive ongoing financial support from parents, but not youth exiting the child protection system. It is an abrupt ending of care. When youth leave care they have no parents to rely on financially or otherwise – and they too often do not have the acumen to understand financial issues. They have had inadequate financial training and therefore financial security is a major threat, as they face high risks of unemployment and homelessness.⁴⁸⁷ As stated in a study on the financial lives of youth leaving care: “Young adults in foster care are thrust into adult financial responsibilities earlier and more abruptly than their general population peers. At the same time, these youth grow up shortchanged on important financial socialization opportunities. They often miss out on owning a piggy bank, earning an allowance, listening to dinner table discussions about saving and investing, and even the simple benefit of trips to the bank with an adult.”⁴⁸⁸

A number of jurisdictions in the United States require that child welfare services assist young people in care in setting up savings accounts, as parents do for their children. Several states have enacted legislative provisions to ensure this occurs.⁴⁸⁹ Several US states have also enacted law requiring that youth in care receive financial education prior to transitioning to independent living.⁴⁹⁰ This education is sometimes done through public-private partnerships that also provide young people in care connections and mentors, so that there are people they can speak to about career, further education, and financial issues. This social capital is invaluable to young people and often children in care are denied it. We would urge the Department to work on partnerships to provide this social capital to children leaving its care.

Many youths with whom we spoke during this review felt that that due to limited funding, they would most likely have to live in unsafe neighborhoods, if they found housing at all. Moving from place to place remains common even after care. Youth should never ‘leave care’ without having the financial resources to support themselves independently. And very importantly, they must have guidance in developing the financial acumen to survive as adults.

Post-care supports

“Ongoing educational and vocational training opportunities should be imparted as part of life skills education to young people leaving care in order to help them to become financially independent and generate their own income.”⁴⁹¹

United Nations Guidelines for the Alternative Care of Children

“I need someone to guide me. It gives me anxiety. I’m kind of worried about how I pay the rent, how am I getting around, will I have to get a job. I put things off a lot because it stresses me out. I really need someone to tell me what I have to do; I started to apply to universities but don’t have a bank card so I couldn’t submit my application.”

A youth who has aged out of care

“I’m really happy with the program [of support for post-secondary studies], it’s really a plus.

A former youth in care now in College

New Brunswick’s child welfare legislation contemplates continued support for youth as they grow up – support provided in the manner of a conscientious parent. The *Family Services Act* provides: “Where a child who has been in care under a guardianship agreement or order reaches the age of majority the Minister **may**, in accordance with the regulations, continue to provide care and support for the child” [emphasis added]⁴⁹² In the Advocate’s opinion, the word ‘may’ should be ‘must’. Currently, continuing to provide support is a discretionary choice of Department officials.

Perhaps worse is the fact that although the legislation at least provides for the possibility of broad continued care and support, the Regulations that have been made pursuant to this legislation have been crafted to limit the possible extent of that care and support. The Regulations provide as follows:

13(2.1)The Minister may, for the purposes of subsection 49(5) of the Act, continue to provide care and support for a child who

(a) is enrolled in an educational program, or

(b) is not self-sufficient by reason of a physical, mental or emotional disability.⁴⁹³

It is, in the Advocate’s opinion, not in keeping with the legislated obligation for the Regulations to limit continued care and support to only those youth who go on to post-secondary education or those youth who are incapable of providing for themselves due to incapacitating disability. The Department of Social Development’s Child in Care Program Practice Standards follow the Regulations, leaving many youth turning nineteen with no care or support at all.

The problem is further exacerbated by the fact that even the post-secondary education supports the Department is willing to provide are limited and are administered in a problematic fashion.

Firstly, youth are often not given enough guidance or encouragement to undertake post-secondary studies. The Department of Social Development’s Child-In-Care Program

Practice Standards state that “The decision to enter a post guardianship agreement should be taken jointly with the child in care and brought to the Permanency Planning Committee at least three months prior to the termination of the guardianship status.” Three months prior to a youth being obligated to leave the care of the government is not enough time to provide assurance to the youth that they will be supported, especially given the length of time a Permanency Planning Committee may take to make a decision. All of the social workers we spoke with wanted the best possible outcomes for the youth they worked with, but most of them felt frustrated with the processes restricting them from providing what they felt could be the best possible support. If a young person coming out of government care wishes to undertake further education or training, they should be guided by social workers in the same manner that a parent would guide their child at this stage of life. Social workers should be speaking with youth about opportunities long before this time.

Secondly, the criteria required by the Department of Social Development are illogical at best and insulting at worst. The Department’s ‘Child in Care Program Practice Standards’ include “the youth’s capacities” as a criterion to consider when assessing a youth’s request to pursue a post-secondary education program.⁴⁹⁴ This criterion should be removed. If a youth is accepted into a post-secondary program by a College or University, then they obviously are qualified to pursue that education. Post-secondary institutions make admissions decisions based on educational qualifications. For the Department of Social Development to second-guess (and even preclude) a College or University’s decision is nonsensical and indefensible. There should be an automatic funding of application fees and deference to the institution’s decision. A child who has managed to be accepted, despite significant challenges in life, should be funded. There is no long-term economic logic to doing otherwise.

Other criteria that should be removed from the practice standards are “school reports” and “the youth’s attendance during their previous studies”. It is the high school education system that assesses educational attainment, not the Department of Social Development. And it is the post-secondary education system that assesses qualifications for entry. If a young person has the qualifications, they have the qualifications. It is hard to imagine a parent who would say to their child, in effect, “you have done well enough in high school to be accepted into university or college, but I don’t think you’re smart enough.”

Further criteria that should be removed are “motivation” and “cooperation”. If a student wants to apply to post-secondary education, they are motivated. And the criterion of “cooperation” can only sound to a youth like “obedience”. All of these criteria place far too much arbitrary decision-making power in the hands of social workers. Social workers require flexibility and professional discretion in decision making to do their jobs, but restrictive criteria hinder rather than help them in acting in the best interests of

youth. This is even more so the case when the criteria are ambiguous. Surely, most social workers would be highly supportive of youth and their access to supports, but no social worker should have to even contemplate these criteria before making a decision as to whether to support a youth in undertaking further education and career training. The Child in Care Program Practice Standards should be rewritten to remove all stigmatizing, illogical and insulting required criteria for approval of post-secondary education supports.

Thirdly, if a young person leaving the Minister's care does qualify for post-secondary education supports, those supports are cut if the youth wants to change to a different academic program. Why is the broadly worded statutory provision interpreted in practice to mean young people get one kick at the can at post-secondary education? Who decided on such a restrictive interpretation? This, we submit, is poor administration. It is far better to change as a young person learns about a field than to rack up costs and debt in pursuit of a programme that will not lead to a satisfying career. Furthermore, fear of having funding cut off is stressful. The New Brunswick Youth-in-Care Network's "A Long Road Home" report recommended that government "Allow post-guardianship youth to change programs as often as they choose while maintaining their funding." Government's response was lengthy but did not answer this recommendation.⁴⁹⁵ The Advocate supports the Youth in Care Network's recommendation and is of the opinion that the default position should be that youth who have lived through the trauma of extreme abuse and neglect and left the care system must always be supported when they have the courage to undertake post-secondary education and have earned the academic qualifications to do so.

Fourthly, the process itself is often unnecessary stressful to the young person. The process that we have seen when a young person who has left care subsequently applies for support for post-secondary education could not in our opinion ethically be described as 'care'. Post-Guardianship Services information on the Department's website (and information about how to appeal a decision of the Department of Social Development not to fund post-secondary education) is almost non-existent. If the young person does somehow learn how to apply, the process is not comfortable. The young person may be brought into what they perceive to be an intimidating and confrontational 'meeting' to determine whether they should be supported. There are few places less welcoming than a Department of Social Development office. Often the young person is told in advance that they will have to make the case for support. This may entail showing 'what has changed' in the life of the young person such that the Department should support ongoing education or training. A dutiful, caring parent would frankly know what has changed in the life of their child. These young people are 'out of care' in the legal sense and also very much in the practical sense. Care is finished for them. No

one is left to care about their lives, and they need to build their new lives from scratch. This process seems to be unnecessarily adversarial rather than caring and supportive.

Youth want government to recognize their abilities and also the reality of their situation. The Department of Social Development's practice standards currently cut off funding at age 24. In B.C., a government tuition waiver program that has helped over a thousand former youth in care access funds to pursue post-secondary education goes to age 27.⁴⁹⁶ The Department of Social Development could look at increasing the age limit as BC has done, especially considering that the Department's own practice standards state: "Post-secondary education is critical to youth's career development and increased quality of life." The argument for better support from the Department is bolstered by the fact that the New Brunswick government offers the Renewed Tuition Bursary to all students, which alleviates the cost of post-secondary education for youth, parents, and the Minister of Social Development.⁴⁹⁷

Practice standards provide that social workers assigned to youth pursuing post-secondary education must have contact with the youth at a minimum once a month. It is certainly beneficial – and necessary – for this contact to exist. We believe that these social workers should work in interdisciplinary teams to provide well-rounded supports and advice to youth. Young people need to develop the relationship skills they require for independence and career pursuits. To further this, the Department of Post-Secondary Education, Training and Labour should have responsibilities to collaborate with the Department of Social Development. Young people need to have guidance on what to check when inspecting a potential home. They need help in understanding their rights and responsibilities as a tenant if they are renting housing (it is not uncommon for young people to face discrimination based on age – it is important to remember that this is illegal under New Brunswick's *Human Rights Act*,⁴⁹⁸ but it is rare for a young person to have the wherewithal to know this).⁴⁹⁹ To ensure understanding of tenants' rights, the Residential Tenancies Tribunal should work with the Department of Social Development on a guide for youth. The Department of Social Development should look to various government Departments and agencies to ensure ongoing supports to young people are meaningful and impactful.

RECOMMENDATION 19

Regulation 81-132 under the Family Services Act should be amended to provide that anyone who has been in the custody or guardianship of the Minister of Social Development must be provided with continued care and support, including but not limited to post-secondary education funding. Furthermore, a more

comprehensive and individually tailored support package should be created and provided by government for all youth ageing out of the care system. An integrated service delivery approach should be developed to ensure that a wraparound model of education, social services and labour training is available to assist all youth leaving care in accessing services, supports and resources.

RECOMMENDATION 20

The Department of Social Development should require that each youth exiting care at age nineteen be assigned a social worker to provide ongoing help to access supports that ensure stable and safe housing, financial security and career guidance. We further recommend that the Department bring forward legislative proposals obligating the establishment of savings accounts and provision of financial mentorship programmes for youth exiting care.

Extending care past age 19

“When I get married, the three social workers I had will be my bridesmaids.”

A former youth in care

Adverse Childhood Experiences are ten key traumatic experiences an individual can have in childhood that are linked to long-term mental and physical health consequences. These experiences are: physical abuse; verbal abuse; sexual abuse; physical neglect; emotional neglect; alcoholic parents; witnessing domestic violence; a parent in prison; a family member with a mental illness; and the loss of a parental figure through divorce, death or abandonment.⁵⁰⁰ While having any number of Adverse Childhood Experiences can put a person at risk, having four or more is the threshold at which people become highly likely to experience severely injurious long-term psychological, social and physical consequences, and even premature death.⁵⁰¹ It has been found in studies that more than half of youth in child welfare systems have experienced four or more Adverse Childhood Experiences.⁵⁰²

Findings from a 2018 report show that those who remain in government care past age eighteen experience better outcomes than those who leave care at that age.⁵⁰³ Research demonstrates that the positive effects of government care increase with *each year* an older youth spends in care past age eighteen.⁵⁰⁴ In jurisdictions where care is extended past the age of eighteen, young people are more likely to be in school, employed, and housed stably.⁵⁰⁵

Young people who age out of government care have multiple challenges⁵⁰⁶ while still undergoing critical brain developmental changes and exploring their sense of identity.⁵⁰⁷ They been found to be at increased risk for homelessness,⁵⁰⁸ low educational attainment,⁵⁰⁹ high unemployment rates,⁵¹⁰ and young parenthood.⁵¹¹ Youth coming out of the care system with personal histories of trauma have difficulties accessing mental health services in the adult system. A smooth transition from the children's mental health to the adult's mental health system is required to ensure that resources and services are accessible and ongoing.⁵¹²

The age of leaving care in New Brunswick is nineteen. The outcomes we see anecdotally (again, the Department of Social Development does not collect useful information on this matter) point to the need for extended care past nineteen. As of 2018, 28 states in the USA had extended foster care plans.⁵¹³ This is a matter that has long needed examination in New Brunswick. Not only do youth lose supports at age nineteen in this province, they lose their independent advocate at that age also.⁵¹⁴

RECOMMENDATION 21

The *Child, Youth and Senior Advocate Act* should be amended to provide advocacy services to, at minimum, age 24 for any youth who has been in the care of the government.



PART 12.
PREVENTION OF AND
RESPONSE TO CHILD
ABUSE AND NEGLECT

“We need a major culture shift in the area of child protection: to move from focusing primarily on the system to focusing primarily on the child and their rights.”

A former professional within the Department of Social Development

Child protection social workers do jobs that most of us could never psychologically handle. It is work that is incredibly demanding and stressful. They see the worst of human behaviour, they face unsettling and dangerous situations, and they save children. A child protection worker requires a big heart and a thick skin. And they work in a system that places the onus on them to find solutions to problems that demand more than social work expertise. If any system needs the collaboration of health professionals, education professionals, justice system professionals and community supports, it is the child protection system.

Our province’s child welfare legislation does not specifically define child abuse and neglect, but it does list several kinds of abuse and neglect in this provision: “Any person who has information causing him to suspect that a child has been abandoned, deserted, physically or emotionally neglected, physically or sexually ill-treated, including sexual exploitation through child pornography or otherwise abused shall inform the Minister of the situation without delay.”⁵¹⁵ These are the types of situations that child protection social workers face daily.

A more general definition of child abuse and neglect may be “any recent act or failure to act on the part of a parent or caregiver that results in death, serious physical or emotional harm, sexual abuse, or exploitation, or an act or failure to act that presents an imminent risk of serious harm.”⁵¹⁶ These are the situations child protection social workers rescue children from.

The Department of Social Development commissioned an independent review of the province’s child protection system in 2018.⁵¹⁷ This review was and is important, but it had inherent limitations. That report was very insightful and very thorough within its mandated parameters. However, those parameters were very limited. It focused on only a small segment of the child welfare system: child protection services. It also only focused on that small segment of the child welfare system from the perspective of social workers. This is completely understandable, given the time frame in which the review had to be completed and the mandate provided to the consultant, George Savoury, to do so. However, the child welfare system is far more complex than just child protection services, and child protection itself involves far more stakeholders than only the Department of Social Development. That review did not concern: (1) prevention of child abuse and neglect; (2) the roles of professionals in the education, health and justice systems; or (3) the actual impact of the child protection system on children.

More concerningly, again due to the limited time frame, no children or youth were consulted during the production of that report. And most concerningly, the Department of Social Development has been acting on recommendations from that review without consulting children and youth about what works and what doesn't. This is a fundamental error. It is admittedly somewhat incongruous to criticize a government Department when it is taking necessary actions with the goal of improvement, as the Department undoubtedly is. However, it is the Advocate's firm opinion that the Department should make changes that significantly impact children and youth in the system only after first comprehensively consulting them.

The commissioned "Review of the Effectiveness of New Brunswick's Child Protection System" relied heavily, and with good reason, on a report from the UK: "The Munro Review of Child Protection: Final Report, a Child-Centered System."⁵¹⁸ The Munro review was an extremely comprehensive one and it is no criticism of Mr. Savoury's review that he looked for guidance in best practice there. There is, though, an obvious irony in a New Brunswick government-commissioned review being prevented from consulting with children and youth and yet producing a report relying to such a degree on another report with the words "a Child-Centered System" in the title.

As thorough as Mr. Savoury's work was, he was not only prevented from speaking with children or youth in the system, he was also limited in his ability to consult professionals outside of Social Development. Doctors, nurses, teachers, psychologists, teachers, police, probation officers, Child & Youth Teams, Crown counsel, Legal Aid lawyers, youth support workers, family support workers, group home staff, foster parents, and others all have crucially important opinions about their involvement in child protection. As the Munro review stated: "the inspection system should be able to examine the journey of children through the child protection system from needing to receiving help. This includes assessing not only the role that agencies such as health and the police have played in bringing them to the attention of children's social care, but also their ongoing role in working in collaboration with children's social care."⁵¹⁹

As the report you have been reading has hopefully made clear in the preceding chapters, the ultimate failing of the child-in-care system in New Brunswick is that it does not know how it impacts children. What performance measures exist, and there are not enough of them, do not directly relate to impact on children. The same failing exists in child protection services. The reason why further review of the New Brunswick child protection system must occur is found in this important point from the Munro review: "The most important measure of how well children's social care services are operating is whether children and young people are effectively helped and kept safe from harm."⁵²⁰ The Department of Social Development should undertake a review of child protection services that engages stakeholders that interact with the system. And of

utmost importance is that such a review includes the opinions of children and youth who have experienced child protection services.

Challenges for child protection social workers

“It’s not uncommon for child protection workers to come into the office on weekends or evenings to catch up on the paperwork or to find time to meet with children and families.”

A child protection supervisor

“When there are illnesses, absences and staff leaving to less demanding jobs, we can’t meet the practice standards.”

A child protection supervisor

“We can’t keep children safe with these workloads.”

A child protection worker

“We need a better tool for measuring workloads than using the number of files.”

A child protection supervisor

“There is way too much time spent on administrative obligations; the priority should be direct contact with children and families.”

A child protection worker

Some kinds of social work, such as child protection, are among the most difficult jobs a person could have, and people doing this work deal with difficult realities that most of us could not handle being exposed to. Child protection workers experience trauma as a daily aspect of their jobs. Given the extreme psychological stress and the complex and numerous files, unrealistic expectations are placed on child protection social workers in New Brunswick. Without adequate support and ongoing time devoted to training and self-care, it cannot be expected that they can cope with the demands of the work, stay fully engaged with the children, youth and families in their caseloads, and manage the numerous administrative tasks involved. This is unfair to the profession and can lead child protection professionals to burnout and depersonalize their work, which also translates into poor outcomes for their cases.⁵²¹

The work of child protection involves contentious and intense interactions, heartbreaking situations, a lot of time on the road and making difficult decisions about risk levels that can never be made with certainty. As one social worker told us: "In child protection you have to make decisions all the time on the spot without consulting; you debrief with your supervisor later, hoping it was the right decision." Supervisors are also overwhelmed because they have to do a lot of coaching with new workers and also participate in immediate risk conferences and family group conferences. Supervisors are burdened with administrative tasks, managing the emotional well-being of staff, and ensuring files are handled according to practice standards.

Social workers are seeing ever-more complex situations in child protection. Serious drug use and mental health issues are often present with parents. The demographics of the family unit itself has changed considerably also, as child protection services sees that in their caseloads two-parent families are the exception rather than the norm. They see considerably more separated parents living with another partner who also has children, they see more single parents with multiple children from different biological fathers. When working with a family, many combinations of parents, stepparents and grandparents can be involved, and the social worker must manage contact with all of these people involved. This leads to increased difficulty in meeting contact standards for all of their cases, adding to the stress burden on social workers and supervisors. This work is stressful enough without the added stress of not being able to meet standards. A workload measurement rather than a caseload number would be more reasonable to ensure standards can be met and to prevent worker burnout.

Regions hire new Bachelor of Social Work graduates constantly, as they cannot retain people in this highly demanding area of practice. This is the entry place for new social workers, but not many stay in it for the entire careers. The result is that child protection teams are burdened with heavy work and little time for professional development; families therefore are often working with changes in social workers. "In two months, a family might have four different social workers," a supervisor told us. Being plunged into child protection work directly after university studies with no experience is a harrowing prospect. It also means that experienced workers must take extra time to guide new ones. The Department was not able to tell us the average number of social workers who have responsibility for a file over the course of its history.

The Department of Social Development was also unable to tell us the average number of years of experience of Child Protection Services social workers and the employee turnover rate, nor the average number of sick days taken per year. Emotional exhaustion and the development of a negative and detached attitude toward clients are primary factors in burnout of child welfare social workers.⁵²² Increased absenteeism, increased turnover and consequent increased training costs for new employees, and diminished job performance are all connected to burnout. There are practical reasons

as to why the Department of Social Development should always be seeking to improve supports and relieve the stress of social workers, and there are ethical reasons. Job burnout has been proven to be a risk factor for a variety of health problems.⁵²³

Child protection workers are placed into highly challenging work environments, and we have heard from many of them that they did not feel prepared with adequate training when they began. It is no secret in the profession of child welfare that “Caseworkers with higher training, an increased perceived job performance... and high job satisfaction contribute greatly toward low employee turnover” and that “there is a direct correlation between low retention rates and unmanageable caseloads.”⁵²⁴

A fear is sometimes voiced within the Department of Social Development that criticism of the system will drive social workers away from child protection work. We believe that the system itself drives people away from child protection work. Still, we acknowledge the concerns, such as this one from a child protection worker who said to us: “This is complicated and incredibly hard work, and we are under a lot of pressure and scrutiny from the media, and, frankly, from you guys.” Nevertheless, the system cannot improve when the problems are not addressed. Child protection is extraordinarily difficult work, and judging by the extremely high turnover rate, the current system is not responsive to the needs of these social workers.

MORE THAN A FILE

Isabella is a 14-year-old, and her brother Jacob is 12. They live in an apartment without parents. Neither attends school regularly, and Isabella smokes cannabis daily, provided by her father. Jacob cannot read. Their mother kicked them out of her home. They went to live with their father in his apartment. However, their father has two young children with another partner, and their mother did not want Isabella and Jacob in her apartment. Their father got another apartment to house Isabella and Jacob, with the apparent intention of dividing his nights between the two apartments.

Jacob has reported to his school guidance councillor that his father is rarely at the house, and that his sister cooks for him and takes care of him. Jacob has also reported feeling abandoned and suicidal. He spends his time playing video games, and on the sporadic days when he does attend school, he doesn't have food.

Child Protection services was called in March of 2021. Between then and February of 2022, five reports of neglect, including that these children were alone overnight most nights, have all led to Social Development determining that the concerns were unsubstantiated. Similarly worrying is

the fact that none of the information for these five investigations was inputted into Social Development's case management system. The social worker's notes did not get inputted until February of this year. And even more troubling is that when the notes for these five investigations were inputted, there was only one safety assessment and one risk assessment recorded, instead of five, presumably because these assessments had not been done for the first four investigations. During the entire year, the social worker had not met with Isabella alone to assess her safety.

This level of intervention by child protection services surely will shock the general public to hear. Three years after *Behind Closed Doors*, our report on a situation of chronic and extreme child neglect that was left unobserved by Social Development, it is disturbing to continue to see such situations of children left in such risk. We conclude that this results from an understaffed and overworked child protection system.

The data deficit in child protection services

The Department of Social Development was incapable of providing the following child welfare information.

- The number of cases in which child victims suffered neglect per year.
- The number of cases in which child victims suffered physical abuse per year.
- The number of cases in which child victims suffered sexual abuse per year.
- The number of cases in which child victims suffered psychological maltreatment per year.
- The number of cases in which child victims suffered polyvictimization (more than one type of abuse/neglect)

We had requested this information and more, including ages and genders of the children concerned, and specific data for Indigenous children. We had asked for the number of children and youth who have been victims of a second instance of abuse or neglect subsequent to a first instance being known to the Department. We had requested the percentage of abuse or neglect cases involving a victim witnessing domestic violence. We had asked for the number and percentage of abuse or neglect cases wherein the perpetrator had been a victim of abuse or neglect themselves as a child. We had requested the number of abuse or neglect cases by perpetrator age ranges. We asked for the number and percentage of cases in which the perpetrators were the mothers, fathers, both, another family member, a person who interacted with the child through a civil society organization (e.g. a not-for-profit, business, a religious

organization, etc.), a minor, or other categories of people. We had asked for the percentage of calls to child protection services from children and youth. We asked repeatedly. We got no information from the Department of Social Development.

The Department was not able to easily provide even the number of sick days or the turnover rate of social workers in child protection services. We see anecdotally how often social workers burnout and need to leave this area of practice, but as far as we know the Department does not measure these rates.

The lack of collaboration in child protection services

“In case of separation, the State must guarantee that the situation of the child and his or her family has been assessed, where possible, by a multidisciplinary team of well-trained professionals...”

UN Committee on the Rights of the Child, General Comment 14⁵²⁵

“Integrated Service Delivery is a gift, but other Departments have unrealistic expectations of child protection services – taking the child from the family is not always the best solution but it very often is what other Departments tell us should happen.”

A child protection social worker

“We are attacked by the school officials and hospital staff who all want us to take kids into protective care.”

A child protection social worker

“We don’t have the budget or expertise to provide the residential treatment services that Child and Youth (ISD) teams recommend.”

A child protection supervisor

The child protection system absolutely needs to be re-shaped to be truly collaborative. The system must fully engage with public health nurses, neonatal intensive care unit nurses, pediatricians, police, teachers, psychologists, and guidance counsellors in schools, and Child & Youth Teams in the Integrated Service Delivery system. We heard serious complaints about child protection services from professionals in all of these areas. The complaints about lack of collaboration largely ring true in our experience, but in fairness, child protection services is also faced with pressure from other government service providers to do what child protection services cannot always do, and child protection services takes the blame.

New Brunswick's *Family Services Act* provides that the security or development of a child may be in danger when, for example, the child is beyond the control of the person caring for them, or the child is likely to injure themselves or others.⁵²⁶ Children and youth who require specialized services (such as, for example, complex mental health needs) should not necessarily need to come into the protective care of the Minister of Social Development, but the fact is that there must be an avenue for these children and youth to receive the care they need. This need necessitates greater collaboration between Child Protection Services and other professionals.

A child protection worker should not have to assess situations without the benefit of the insight and knowledge of professionals such as public health nurses, teachers, police, or others who may know the situation better. A youth in care made this point in the following way: "When social workers have to visit a family, they shouldn't call ahead to set up an appointment. Parents prepare the home and the kids. The social worker comes into a different situation than what the kids live every day. My parents would go steal or buy food, would tell us what to say when the social workers asked questions and the social workers couldn't see past the fake. So we stayed in that place for way too long."

The Departments of Social Development, Education and Early Childhood Development, Health, and Public Safety should jointly develop a child protection practice benchmarking tool, to assess whether current practices are delivering consistent rights-adhering approaches and the best possible outcomes for children and communities, and to identify where evidence-based improvements can be made. The tool should aim to address the child's experience and cultural considerations, and also provide training and skill development for child protection workers.

The lack of a prevention focus

"Even if the home environment is less than perfect, young people are probably better off staying there than coming into a care system with resources that cannot meet their needs."

A child protection social worker

"Invest more in prevention and offer services to families before the situation escalates to the point of having to take a status on the child."

A child protection social worker

The independent review of child protection services commissioned by government was not mandated to address *prevention* of child abuse and neglect – everything that occurs

prior to an allegation of abuse or neglect.⁵²⁷ If we want to truly fix the child welfare system in this province, we must uphold the right of all children to be free from abuse and neglect, and this means having a prevention focus.

Much of prevention requires provision – provision of services that alleviate parental stresses. This provision needs to begin during pregnancy. The pivotal consequence of fetal development cannot be overemphasized: “By the end of the embryonic period (gestational week 10), the basics of the neural system are established.”⁵²⁸ It has been shown that prenatal exposure to stress is associated with greater stress reactivity in infancy and long-term deficits in emotional and cognitive functioning.⁵²⁹

The shift toward increased ‘Family Enhancement Services’ was a welcome attempt to address child development needs and parental supports at the prevention level before parents could no longer manage and neglect became overwhelming. This approach was discontinued as a standalone program following the independent review of child protection services⁵³⁰ and the Advocate’s Behind Closed Doors report⁵³¹, but continues today under child protection services, and it allows child protection workers to support families without stigma. Still, many barriers persist.

Following birth, supports must be provided to families at risk of serious parental difficulties. Supporting families before crisis occurs is often very viable, yet New Brunswick lacks in much of this provision. For example, social workers tell us that they fear a high number of children with Autism will end up in care if families and agencies are not provided more resources to support the families. Child protection workers have told us that they find parents are exhausted when they have children with special needs and other professionals tell parents to call child protection and get their children placed in government care when the support needs become too much for parents to handle alone. There are similar problems in relation to children suffering from neglect due to poverty and parents being unable to provide adequately for their children. While any child may be exposed to stressors, there is a disproportionate risk for marginalized children and those living in poverty.⁵³² Neuroimaging studies have clearly shown that low socioeconomic status impacts a child’s prefrontal cortex functioning, impacting their ability for self-regulation.⁵³³ This points to the importance of supporting families struggling to provide the necessities for children. Multiple studies indicate that the variety of chronic stress associated with children living in poverty can contribute to problems with emotional well-being and coping skills.⁵³⁴

Prevention also requires vigilance. The Department of Social Development does not adequately track where referrals of suspected child abuse and neglect come from, and therefore does not know where gaps in reporting might be. We wanted to know how many referrals come from schools, daycares, health professionals, police, family members, foster care providers, group home staff, Integrated Service Delivery Child and

Youth Teams, child or youth victims themselves, and other sources. The Department could not tell us. To ensure that intervention occurs early, before serious harm, the child protection system needs to be alert to and react to concerns of professionals. We believe there is much improvement that needs to occur in that regard. For example, we heard from many nurses who vented their frustration about the child protection system ignoring their calls when they report abuse and neglect. It is legally required for everyone to report suspected child abuse or neglect, and it is a provincial offence for professionals who interact with children not to report⁵³⁵ – it is a very shocking indictment of the system when we hear from many professionals that they sometimes don't report because they believe nothing will be done.

As mentioned earlier in this report, the Child Victims of Child Abuse and Neglect Protocols are meant to act as a working guide for how health professionals, justice and public safety officials, and education professionals collaborate in the child welfare system, but these protocols are out of date and have long ago fallen into disuse. It is imperative for all of these professionals to trust the system and know their obligations within it.



PART 13.

CONCLUSION

Child welfare services operate in a massive, complex system. It will never be perfect. It must, however, always be striving for improvement. We believe that those operating in the system do strive to make it better. The evidence also, though, suggests that improvements are slow in such a huge operation. There is no question that the child welfare system needs to embrace possibility rather than be mired in bureaucracy. The question is what fundamental aspects must guide the vision. In the Advocate's opinion, the child welfare system needs to adapt to what the children and youth *need* and to what their *rights are*. It needs to adapt also to provide social workers and other professionals with what they require in order to meet those needs and uphold those rights.

One of the key aspects of providing the necessary supports to all those working with and for children in the system is to improve collaboration. This requires defined structures. Protocols and practices must be created to ensure collaboration between government Departments. Protocols should also be developed to help foster parents, group home staff, youth support workers, police, probation services, social workers, health professionals and education experts better work together.

Most importantly, the whole child welfare system must be grounded in the rights of children and youth, and these rights must guide all day-to-day work. Children and youth must be heard from and listened to. Their best interests must be a primary factor in all decisions made for them. Their cultural, linguistic and religious identities must be respected. Their disabilities must be accommodated. Educational and health services must be provided to the maximum extent of available resources, and their development must be ensured to the maximum extent possible. Their rights to be connected to family must be upheld. Their association with others, including other youth in the child welfare system, must be facilitated. Their privacy must be respected. They must have a simple and effective means of making complaints and getting remedies when the system fails them. They must be protected from all forms of abuse, neglect and injury. And they must be provided with an adequate standard of living for their physical, mental, spiritual, moral and social development.

The system needs to respond more swiftly to the needs of abused, neglected and abandoned children. Court processes need to be timelier. Finding permanent stability and family for children, including through adoption, must be less prolonged. Children and youth must not be moved so often between group homes, foster homes, schools and communities. The system needs to alleviate bureaucracy and provide more normalcy for children and youth, so that they can lead lives not vastly different from their peers who are not in government care.

Government must respect the self-determination rights of First Nations, while also fully respecting obligations under Jordan's Principle.

The child welfare system must take a deep look at how to best support social workers, to allow them to do the job they are meant to do and want to do.

New strategies for recruiting and retaining foster care providers must be initiated. Kinship care must be fulsomely supported. More training and professional supports must be provided for youth support workers, foster care providers and group home staff. Trauma-informed care must be universal. Disciplinary behavioural controls that may compromise the wellbeing of children and youth in care must be prohibited.

The system must embrace more evidence-based functions. It must collect, analyze and act on data. It must be transparent in its operations, and in its successes and its failures. It must be accountable to the children it serves and the public by whom it is funded. And when children and youth are in need of protection, they must be treated as a “wise and conscientious parent” would treat them.

PART 14.

RECOMMENDATIONS

RECOMMENDATION 1

It is a critical recommendation of the Advocate that the Department of Social Development develop a scorecard to measure outcomes and conditions for children in care. Our office will commit to work on this project. We also commit to asking for relevant information annually and to advise the Legislative Assembly of what is, and is not, known about the children for whom government is to act *in loco parentis*.

RECOMMENDATION 2

It is recommended that Cabinet-level responsibility for Integrated Service Delivery be assigned to a minister empowered by statute to ensure that all children in care have an integrated services plan developed by all relevant Departments.

RECOMMENDATION 3

The Department of Social Development should include a Child and Youth in Care Bill of Rights in child welfare legislation.

RECOMMENDATION 4

The Department should collaborate with operators to develop a retention, training and standards plan for group homes to increase the expectations, pay and training of these important service providers.

RECOMMENDATION 5

The Department of Social Development should develop a Protocol with all municipal police forces and RCMP detailing the circumstances under which it is appropriate or not appropriate for a group home to call the police. This Protocol should also detail a mechanism by which police can notify the Department when inappropriate use of police intervention is occurring, and detail the appropriate roles of police. The Office of the Attorney General should review its Public Prosecution Operational Manual to provide guidelines for Crown Prosecutors reviewing charges emanating from group home settings to better scrutinize and seek alternate approaches to prosecution such as diversion.

RECOMMENDATION 6

Amendments to the *Family Services Act*, or, preferably, provisions a new *Children's Act*, should allow courts to consider a full range of kinship options in child protection cases and provide for more nuanced reviews, in statute and regulation, of potential kinship placements.

RECOMMENDATION 7

The Department of Social Development should lead a collaborative project to create a Child Welfare Strategy.

RECOMMENDATION 8

Program reviews of all aspects of the child welfare system should occur annually and should involve interaction with social work academics at both l'Université de Moncton and Saint Thomas University who are immersed in current research on best practices.

RECOMMENDATION 9

The Department of Social Development should immediately place all practice standards and policy directives related to child welfare online for public access, and work with the Child and Youth Advocate to plan for annual public reporting, beginning in 2022, on statistics related to the child welfare system.

RECOMMENDATION 10

The Department of Social Development should work with social work faculty at both l'Université de Moncton and Saint Thomas University to design consultation tools for children and youth in care, and the consultation should occur each year for longitudinal data collection.

RECOMMENDATION 11

The Department of Social Development's Practice Standards should be amended whereby social workers are encouraged to bring their own concerns about the system to the Child and Youth Advocate.

RECOMMENDATION 12

The role of the Child and Youth Advocate should be included in all relevant legislation, regulations, practice standards and training materials for social workers, group home operators, and foster care providers.

RECOMMENDATION 13

The Department of Social Development should create a statutory requirement for an accessible child-centered conflict resolution process, including a provision that if a child or youth makes a complaint about a decision or service provision and is not satisfied with the results of the reasons provided in answer to the complaint, they should have recourse to an independent administrative review process.

RECOMMENDATION 14

The Department of Social Development should invest in a new case management system that, at a minimum, collects comprehensive information pertinent to the lives, development and rights of children and youth in the child welfare system.

RECOMMENDATION 15

The Department of Social Development should institute mandatory education sessions on the benefits of the New Brunswick Youth in Care Network to all child protection workers, child in care workers and youth engagement services workers. Group homes and foster homes should be required by Practice Standards to promote the New Brunswick Youth in Care Network to youth in their residences, and a protocol should be developed with the Department of Social Development to allow the Coordinator for the New Brunswick Youth in Care Network access to visit youth in group homes and foster homes. The Department of Social Development should also fund the hiring of a Francophone coordinator of the New Brunswick Youth in Care Network to work with the current Coordinator.

The Department of Social Development should also create a full-time Youth Voice Coordinator position within the Department to promote the Network and other avenues for the opinions of youth to be heard and considered in the system.

RECOMMENDATION 16

Child welfare legislation should include a right to a lawyer as personal counsel, not duty counsel, at first appearance in Youth Court for any youth with a care status. The Department of Social Development should create a detailed guide for social workers that explains how best to advocate for their client in youth criminal justice matters.

RECOMMENDATION 17

Government should develop and adopt a holistic and long-term strategy and make necessary budget allocations for children in street situations, including an outreach function, to go to the youth where they are.

Youth Engagement Services must be protected in legislation with legally guaranteed access for all youth aged 16-19 to counselling, education supports, drug treatment/rehabilitation programs, and employment guidance.

RECOMMENDATION 18

The Department of Social Development should conduct a review of adoption processes amongst the various regions of the Province to ensure consistency, and to create a process to ensure regional collaboration and sharing of best practices.

RECOMMENDATION 19

Regulation 81-132 under the Family Services Act should be amended to provide that anyone who has been in the custody or guardianship of the Minister of Social Development must be provided with continued care and support, including but not limited to post-secondary education funding. Furthermore, a more comprehensive and individually tailored support package should be created and provided by government for all youth ageing out of the care system. An integrated service delivery approach should be developed to ensure that a wraparound model of education, social services and labour training is available to assist all youth leaving care in accessing services, supports and resources.

RECOMMENDATION 20

The Department of Social Development should require that each youth exiting care at age nineteen be assigned a social worker to provide ongoing help to access supports that ensure stable and safe housing, financial security and career guidance. We further recommend that the Department bring forward legislative proposals obligating the establishment of savings accounts and provision of financial mentorship programmes for youth exiting care.

RECOMMENDATION 21

The *Child, Youth and Senior Advocate Act* should be amended to provide advocacy services to, at minimum, age 24 for any youth who has been in the care of the government.

APPENDIX I

SUGGESTED MINIMUM LEGAL GUARANTEES OF CHILDREN AND YOUTH IN CARE TO BE ENshrINED IN LEGISLATION

To organize in groups for purposes of ensuring that they receive the services and living conditions to which they are entitled, and to provide support for one another.

To know of and be provided the means to freely contact the Child and Youth Advocate.

To have personal space and appropriate privacy for personal needs.

To have personal possessions.

To be free from unreasonable searches of personal belongings.

To have private communications including telephone calls, social media and mail, unless prohibited by court order.

To know why they are in care and what will happen to them and to their family, including siblings.

To face disciplinary measures only as appropriate to the child's level of maturity and in accordance with their rights under the UN Convention on the Rights of the Child.

To be free from corporal punishment or any form of physical discipline.

To be free from unwarranted physical restraint and isolation.

To not be locked in any room, building, or facility premises, unless placed in a community treatment facility.

To have any restrictions explained to them in a manner and level of detail deemed age appropriate.

To have services and care that is respectful of their culture, gender and religious beliefs and practices.

To participate in extracurricular, cultural, and personal enrichment activities of their choice, including community, school and religious services (and the right to refuse to attend any religious activities and services).

To receive extra help necessary to succeed at school.

To participate in service planning and permanency planning meetings, with a support person chosen by the child or youth with any objection of the child or youth being noted in their case record.

To be referred to and receive consistent medical, dental, vision, and mental health services.

To be free of unnecessary or excessive medication and to have a second medical opinion when requested.

To have the right, pursuant to the *Medical Consent of Minors Act*, to consent to or refuse medical treatment.

To report a violation of personal rights without fear of punishment, interference, coercion or retaliation.

To have easy access to a grievance policy and procedure in their group home.

To be able to raise grievances with the Department of Social Development, and to be guaranteed a response in writing, over the care they are receiving from their caregivers, social workers, or other service providers.

To have family and relatives explored first as potential placement providers.

To contact family members, unless prohibited by court order, and to be assisted in challenging any such order.

To enjoy regular visitation, at least once a week, with their siblings and parents, unless a court orders otherwise.

To manage personal income, consistent with the child's age and developmental level.

To work and have opportunities to develop job skills at an age-appropriate level.

To have social contacts with people outside of the government care system.

To be notified, attend, and participate in court hearings and to speak to the judge regarding any decision that may have an impact on their life.

- To have an *attorney ad litem* appointed to represent their legal interests.
- To receive meaningful case planning and management that will quickly return the child to his or her family or move the child on to other forms of permanency.
- To be able to participate in, review and challenge their own case plan.
- To be able to remain in their current school, unless remaining in that school is found not to be in their best interests in the judgment of child welfare and education professionals.
- To have personnel providing services who are sufficiently qualified and experienced to meet the needs of the child or youth.
- To be placed away from other children or youth known to pose a threat of harm to them, either because of their own risk factors or those of the other child or youth.
- To be placed in a home where the caregiver is aware of and understands the child's history, needs, and risk factors.
- To receive regular communication with a social worker, which shall include meeting with the child alone.
- To have kinship care attempted as the first option.
- To be treated as a family member in a foster home and be included in a foster family's activities, holidays and rituals and be able to freely discuss reasons with a social worker and foster family if choosing to not participate.
- To be placed in foster care homes with their siblings if also in care, when it is in the best interest of each sibling.
- To be placed in close geographical distance to siblings who are not in care, to facilitate frequent and meaningful contact.
- To placement outside their home only after every reasonable effort has been made, including the provision of substantial financial assistance and comprehensive services, to enable the child to remain in their home.
- To be free from repeated changes in placement.
- To receive appropriate life skills training and independent living services to prepare them for the transition to adulthood
- To have opportunities for postsecondary education, training and employment.

To have health insurance provided to age 24.

To have connections with reliable adults.

To access nutritious meals.

To have the rules of the program they are involved in explained in a child-friendly manner so as to be fully understood.

To be free from abuse or neglect of any kind.

APPENDIX II

DATA PROVIDED BY THE DEPARTMENT OF SOCIAL DEVELOPMENT AT THE CONCLUSION OF OUR REVIEW

CHILD AND YOUTH SERVICES 2020-2021

	As of MARCH 2021	Average FISCAL 2020-2021
Number of Children in Care	Temporary: 540 Permanent: 522	Temporary: 556 Permanent: 474
Number of youth under Post Guardianship/Voluntary Support services	61	55
Number of Foster Homes	324	327
Number of children/youth living in Foster Homes	595	669
Number of Kinship / Provisional Homes	165	169
Number of children/youth living in Kinship / Provisional Homes	187	173
Total number of children/youth living in foster homes & Kinship Placements	782	842
Number of Group Homes	38	38
Number of children/youth living in Group Homes	147	132
Number of families receiving services through the Child Protection and Family Enhancement Services programs	1,106	1,227
Number of families receiving services	1,100	1,149

through the Child Protection		
Number of children receiving services through Child Protection	2,289	2,344
Number of families receiving services through Family Enhancement	6	78
Number of children receiving services through Family Enhancement Services	8	180
Number of Adoption Grants that have been processed (Between April 2020-March 2021)		36
Family Supports to Children with Disabilities		1,107 cases 1,286 children
Number of youth under Youth Engagement Services	218	229
Number of cases/families under Subsidized Adoptions		323

Children in Care

Year	Children in temporary care	Children in permanent care	Total
2004-2005	601	851	1,452
2005-2006	523	852	1,375
2006-2007	525	787	1,312
2007-2008	546	774	1,320
2008-2009	513	756	1,269
2009-2010	443	683	1,126
2010-2011	387	622	1,009
2011-2012	402	581	983
2012-2013	402	543	945
2013-2014	381	524	905
2014-2015	215	498	713
2015-2016	293	470	763
2016-2017	311	453	764
2017-2018	330	431	761
2018-2019	401	435	836

2019-2020	477	452	929
2020-2021	556	474	1,030
As of March, 2021	540	522	1,062

APPENDIX III

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ENDNOTES

- ¹ Canadian Child Welfare Research Portal. <https://cwrp.ca/frequently-asked-questions-faqs#Q1>
- ² Savoury, George. "Review of the Effectiveness of New Brunswick's Child Protection System." November, 2018. <https://www2.snb.ca/content/dam/gnb/Departments/sd-ds/pdf/Protection/Child/ReviewOfTheEffectivenessOfNewBrunswicksChildProtectionSystem.pdf>
- ³ Leadbeater, Bonnie. J. Ross. (2014). *Growing up Fast: Re-visioning Adolescent Mothers' Transitions to Young Adulthood*. New York, NY, US: Psychology Press.
- ⁴ Child, Youth and Senior Advocate Act, SNB 2007, c C-2.7, s. 21(1) <<http://canlii.ca/t/53815>>
- ⁵ UN General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples : resolution / adopted by the General Assembly*, 2 October 2007, A/RES/61/295, available at: <https://www.refworld.org/docid/471355a82.html>
- ⁶ The International Bill of Human Rights consists of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights. UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III); UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171; and UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3.
- ⁷ Office of the Ombudsman and Child and Youth Advocate Province of New Brunswick. "Hand-in-Hand: A Review of First Nations Child Welfare in New Brunswick." February, 2010. <https://www.cyanb.ca/images/handinhand-e.pdf>
- ⁸ Ontario Association of Children's Aid Societies. "Permanency in Our-of-home Child Welfare Care." <PARTicle-Permanency-FINAL.pdf> (oacas.org)
- ⁹ The National Child Traumatic Stress Network (NCTSN). "Understanding Child Traumatic Stress." <http://www.nctsn.org/resources/audiences/parents-caregivers/understanding-child-traumatic-stress>
- ¹⁰ National Scientific Council on the Developing Child and the National Forum on Early Childhood Policy and Programs. "The Foundations of Lifelong Health are Built in Early Childhood." Harvard University Center on the Developing Child. 2010. <http://developingchild.harvard.edu/wp-content/uploads/2010/05/Foundations-of-Lifelong-Health.pdf>
- ¹¹ National Center for Juvenile Justice. "Juvenile Offenders and Victims: 2014 National Report," 2014. <https://www.ojjdp.gov/ojstatbb/nr2014/downloads/NR2014.pdf>
- ¹² See, for example: Flannery, D.J., Vazsonyi, A.T., & Waldman, I. (Eds). *The Cambridge Handbook of Violent Behavior*. Cambridge: Cambridge University Press, 2007; Lazenbatt, Anne. "The impact of abuse and neglect on the health and mental health of children and young people," NSPCC Reader in Childhood Studies, Queen's University Belfast, February 2010. NSPCC.org.uk; Australian Institute of Family Studies (Alister Lamont ed.). "Effects of child abuse and neglect for children and adolescents," National Child Protection Clearinghouse, Resource Sheet, April 2010. <http://www.aifs.gov.au/nch/pubs/sheets/rs17/rs17.pdf>
- ¹³ See for example: Centers for Disease Control and Prevention, Adverse Childhood Experiences Study, Atlanta, National Centers for Injury Prevention and Control, Centers for Disease Control and Prevention, 2006. Available at <http://www.cdc.gov/NCCDPHP/ACE>.
- ¹⁴ The Adverse Childhood Experiences Study is a landmark in epidemiology involving more than 17,000 participants, and providing a solid research base: <https://www.cdc.gov/violenceprevention/acestudy/>
- ¹⁵ Auditor General of New Brunswick. Report of the Auditor General of New Brunswick: Volume II Performance Audit 2019. <https://www.gnb.ca/legis/business/currentsession/59/59-3/LegDoc/Eng/December2019/2019AGVolumeII-E.pdf>
- ¹⁶ Lian, T. C., & Yusooff, F. (2009). *The effects of family functioning on self-esteem of children*. *European Journal of Social Sciences*, 9(4), pp. 643-650.
- ¹⁷ National Scientific Council on the Developing Child and the National Forum on Early Childhood Policy and Programs. "The Foundations of Lifelong Health are Built in Early Childhood." Harvard University Center on the

Developing Child. 2010. <http://developingchild.harvard.edu/wp-content/uploads/2010/05/Foundations-of-Lifelong-Health.pdf>

¹⁸ Harter, S. (2012). *The Construction of the Self: Developmental and Sociocultural Foundations* (2nd ed.). New York: Guilford Press.

¹⁹ Meca, A., Ritchie, R. A., Beyers, W., Schwartz, S. J., Picariello, S., Zamboanga, B. L., and Crocetti, E. (2015). Identity centrality and psychosocial functioning: A person-centered approach. *Emerging Adulthood*, 3(5), 327–339.

²⁰ Klimstra, T. A., Hale, W. W., Raaijmakers, Q. A., Branje, S. J., and Meeus, W. H. (2010). Identity formation in adolescence: Change or stability? *Journal of Youth and Adolescence*, 39(2), 150–162.

²¹ Kiang, L., Yip, T., and Fuligni, A. J. (2008). Multiple social identities and adjustment in young adults from ethnically diverse backgrounds. *Journal of Research on Adolescence*, 18(4), 643–670.

²² Article 13 – UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3.

²³ Article 22 – UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3. <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

²⁴ Article 7 – UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3. <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

²⁵ Luck, Shaina. “Abdoul Abdi’s case changes N.S. policies on children in care,” CBC News, Jan. 22, 2019.

<https://www.cbc.ca/news/canada/nova-scotia/abdoul-abdi-child-welfare-nova-scotia-policy-change-1.4979208>

²⁶ Government of New Brunswick, Department of Social Development. Child in Care Program Practice Standards. July 11th, 2018.

²⁷ Family Services Act, SNB 1980, c F-2.2, section 55. <http://laws.gnb.ca/en/ShowPdf/cs/F-2.2.pdf>

²⁸ New Brunswick Child, Youth and Senior Advocate. ‘We Are What We Live.’ February 2022.

²⁹ Family Services Act, SNB 1980, c F-2.2, section 1. <http://laws.gnb.ca/en/ShowPdf/cs/F-2.2.pdf>

³⁰ Family Services Act, SNB 1980, c F-2.2, sections 31 and 32. <http://laws.gnb.ca/en/ShowPdf/cs/F-2.2.pdf>

³¹ Family Services Act, SNB 1980, c F-2.2, sections 44, 48 and 55. <http://laws.gnb.ca/en/ShowPdf/cs/F-2.2.pdf>

³² Family Services Act, SNB 1980, c F-2.2, sections 44 and 56. <http://laws.gnb.ca/en/ShowPdf/cs/F-2.2.pdf>

³³ Family Services Act, SNB 1980, c F-2.2, section 45(1)(a). <http://laws.gnb.ca/en/ShowPdf/cs/F-2.2.pdf>

³⁴ Family Services Act, SNB 1980, c F-2.2, section 45(1)(b). <http://laws.gnb.ca/en/ShowPdf/cs/F-2.2.pdf>

³⁵ Family Services Act, SNB 1980, c F-2.2, section 45(1). <http://laws.gnb.ca/en/ShowPdf/cs/F-2.2.pdf>

³⁶ Family Services Act, SNB 1980, c F-2.2, section 45(3)(a). <http://laws.gnb.ca/en/ShowPdf/cs/F-2.2.pdf>

³⁷ Family Services Act, SNB 1980, c F-2.2, section 45(3)(b). <http://laws.gnb.ca/en/ShowPdf/cs/F-2.2.pdf>

³⁸ Family Services Act, SNB 1980, c F-2.2, section 45(3). <http://laws.gnb.ca/en/ShowPdf/cs/F-2.2.pdf>

³⁹ Family Services Act, SNB 1980, c F-2.2, section 43. <http://laws.gnb.ca/en/ShowPdf/cs/F-2.2.pdf>

⁴⁰ Family Services Act, SNB 1980, c F-2.2, section 45(3). <http://laws.gnb.ca/en/ShowPdf/cs/F-2.2.pdf>

⁴¹ *Family Services Act*, SNB 1980, c F-2.2, s. 55(2)

⁴² *Family Services Act*, SNB 1980, c F-2.2, s. 55(2.01)

⁴³ *New Brunswick (Minister of Health) v. G.J.* [1999] 3 S.C.R. 46 at par. 76 per Lamer C.J.C

⁴⁴ Family Services Act, SNB 1980, c F-2.2, section 45(1)(a). <http://laws.gnb.ca/en/ShowPdf/cs/F-2.2.pdf>

⁴⁵ Family Services Act, SNB 1980, c F-2.2, section 45(1). <http://laws.gnb.ca/en/ShowPdf/cs/F-2.2.pdf>

⁴⁶ *Family Services Act*, SNB 1980, c F-2.2, preamble

⁴⁷ *Olsson v. Sweden (No 1)* A 130 (1988); 11 EHRR 259 para 81 PC.

⁴⁸ U.S. Department of Health & Health Services, Children’s Bureau. Child Welfare Information Gateway: Reunifying Families. <https://www.childwelfare.gov/topics/permanency/reunification/>

⁴⁹ *Family Services Act*, SNB 1980, c F-2.2, s. 45(1)

⁵⁰ *Family Services Act*, SNB 1980, c F-2.2, s. 45(2)

⁵¹ National Academies of Sciences, Engineering, and Medicine. (2019). *The Promise of Adolescence: Realizing Opportunity for All Youth*. Washington, DC: The National Academies Press. <https://doi.org/10.17226/25388>

⁵² Smithgall, C., Gladden, R.M., Yang D.H. & George, R., (2005). Behavior Problems and Educational Disruptions Among Children in Out-of-Home Care in Chicago. Chicago, IL : Chapin Hall.

⁵³ Rubin, D., O-Reilly, A., Luan, X., & Localio, R. (2007). The impact of stability on behavioural well-being for children in foster care. *Pediatrics*, 119(2), 336-344.

⁵⁴ Pecora, P., Williams, J., Kessler, R., Hiripi, E., O’Brien, K., & Emerson, J., et al. (2006). Assessing the educational achievements of adults who were formerly placed in family foster care. *Child and Family Social Work*, 11, 220-231.

- ⁵⁵ Farmer, E., Mustillo, S., Burns, B., & Holden, E. (2008). Use and predictors of out-of-home placements within systems of care. *Journal of Emotional and Behavioural Disorders*, 16(1), 5-14.
- ⁵⁶ Ryan, J. P., Marshall, J. M., Herz, D., & Hernandez, P. M. (2008). Juvenile delinquency in child welfare: Investigating group home effects. *Children and Youth Services Review*, 30(9), 1088-1099.
- ⁵⁷ Wells, R., & Chuang, E. (2012). Does formal integration between child welfare and behavioral health agencies result in improved placement stability for adolescents engaged with both systems?. *Child welfare*, 91(1), 79.
- ⁵⁸ "Fourteen Days' Notice of Placement Change & Grievance Review Hearing - Advokids: A Legal Resource for California Foster Children and Their Advocates." (n.d.) Retrieved from <https://www.advokids.org/legal-tools/information-for-caregivers/14-days-notice-of-placement-change/>
- ⁵⁹ The Canadian Encyclopedia. "Government Apology to Former Students of Indian Residential Schools," July, 2014. https://www.thecanadianencyclopedia.ca/en/article/government-apology-to-former-students-of-indian-residential-schools?gclid=Cj0KCQjwOz6BRCgARIsAKEG4FWJ0sZZe33Y7GyIxMYrh1or0RgW3cpcXOAY3aRr0J7iDhhsSogFlIaAv6VEALw_wcB
- ⁶⁰ First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada), 2016 CHRT 2 (CanLII), <<http://canlii.ca/t/gn2vg>>
- ⁶¹ The Truth and Reconciliation Commission of Canada. "Honouring the truth, reconciling for the future," 2015. http://www.trc.ca/assets/pdf/Honouring_the_Truth_Reconciling_for_the_Future_July_23_2015.pdf
- ⁶² National Collaborating Centre for Aboriginal Health. "Aboriginal and Non-Aboriginal Children in Protection Services." University of Northern British Columbia. 2010. http://www.nccah-cnsa.ca/docs/fact%20sheets/child%20and%20youth/NCCAH_fs_childhealth_EN.pdf
- ⁶³ Office of the Child and Youth Advocate, State of the Child Report 2018, November 2018. ISBN: 978-1-4605-1630-0. <https://cyanb.ca/images/SOC-2018-Report.pdf>
- ⁶⁴ UNESCO Atlas of the World's Languages in Danger. <http://www.unesco.org/languages-atlas/index.php>
- ⁶⁵ Child and Youth Advocate, New Brunswick. Child Rights Indicators Framework, Table 5, Indicator 20. <https://www.cyanb.ca/images/PDFs/State-of-the-Child-Report-2019a.pdf>
- ⁶⁶ Article 30 – UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3. <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
- ⁶⁷ Statistics Canada. "Aboriginal Peoples: Fact Sheet for New Brunswick." March 14, 2016. <http://www.statcan.gc.ca/pub/89-656-x/89-656-x2016005-eng.htm>
- ⁶⁸ United Nations Office of the High Commissioner for Human Rights, Fact Sheet No. 2, The International Bill of Human Rights. <https://www.ohchr.org/Documents/Publications/FactSheet2Rev.1en.pdf>
- ⁶⁹ UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, available at: <https://www.refworld.org/docid/3ae6b3aa0.html>
- ⁷⁰ UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, available at: <https://www.refworld.org/docid/3ae6b36c0.html>
- ⁷¹ Chandler, > & C. Lalonde. "Cultural Community as a Hedge against Suicide in Canada's First Nations." *Transcultural Psychiatry*, 35(2), 1998.
- ⁷² Assembly of First Nations. 2016 Annual General Assembly – Final Draft Resolutions. http://www.afn.ca/uploads/files/2016-aga/16-07-08_afn_aga_2016_draft_resolutions_-_for_distribution.pdf
- CBC News. "B.C. First Nations Leaders' New Book Calls for Native Self-Determination." May 21, 2015. <http://www.cbc.ca/news/canada/british-columbia/b-c-first-nations-leaders-new-book-calls-for-native-self-determination-1.3082783>
- ⁷³ Ostroff, Joshua. "Paul Martin Rejects Jean Chrétien's Suggestion That People Should Leave Attawapiskat," *Huffington Post*, 06/01, 2016. http://www.huffingtonpost.ca/2016/06/01/paul-martin-chretien-attawapiskat_n_10220812.html
- ⁷⁴ Canada., Erasmus, G., & Dussault, R. (1996). *Report of the Royal Commission on Aboriginal Peoples*. Ottawa: The Commission. <http://caid.ca/RepRoyCommAborigPple.html>
- ⁷⁵ Truth and Reconciliation Canada. (2015). *Honouring the truth, reconciling for the future: Summary of the final report of the Truth and Reconciliation Commission of Canada*. Winnipeg: Truth and Reconciliation Commission of Canada. <http://www.trc.ca/websites/trcinstitution/index.php?p=893>
- ⁷⁶ UN General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples : resolution / adopted by the General Assembly*, 2 October 2007, A/RES/61/295, available at: <https://www.refworld.org/docid/471355a82.html>

⁷⁷ See for example: *R. v. Sparrow*, 1990 CanLII 104 (SCC), [1990] 1 SCR 1075, <<http://canlii.ca/t/1fsvj>>; *R. v. Van der Peet*, 1996 CanLII 216 (SCC), [1996] 2 SCR 507, <<http://canlii.ca/t/1fr8r>>; *Delgamuukw v. British Columbia*, 1997 CanLII 302 (SCC), [1997] 3 SCR 1010, <<http://canlii.ca/t/1fqz8>>; *Mikisew Cree First Nation v. Canada (Minister of Canadian Heritage)*, 2005 SCC 69 (CanLII), [2005] 3 SCR 388, <<http://canlii.ca/t/1m1zn>>

⁷⁸ Fontaine, Tim. “Canada officially adopts UN declaration on rights of Indigenous Peoples,” CBC News, May 10, 2016. <https://www.cbc.ca/news/indigenous/canada-adopting-implementing-un-rights-declaration-1.3575272>

⁷⁹ An Act respecting First Nations, Inuit and Métis children, youth and families, SC 2019, c 24, <<http://canlii.ca/t/544xh>>

⁸⁰ Truth and Reconciliation Commission of Canada. *Calls to Action*. Winnipeg: Truth and Reconciliation Commission of Canada, 2015. http://trc.ca/assets/pdf/Calls_to_Action_English2.pdf

⁸¹ *Family Services Act*, SNB 1980, c F-2.2, s. 45(3)

⁸² UN General Assembly, *Guidelines for the Alternative Care of Children : resolution / adopted by the General Assembly*, 24 February 2010, A/RES/64/142, available at: <https://www.refworld.org/docid/4c3acd162.html>

⁸³ UN General Assembly, *Guidelines for the Alternative Care of Children : resolution / adopted by the General Assembly*, 24 February 2010, A/RES/64/142, available at: <https://www.refworld.org/docid/4c3acd162.html>

⁸⁴ Office of the Child and Youth Advocate, State of the Child Report 2019, November 2019. <https://www.cyanb.ca/images/PDFs/State-of-the-Child-Report-2019a.pdf>

⁸⁵ Ministry of Children, Community and Social Services, Government of Ontario. “Ontario’s Quality Standards Framework: A Resource Guide to Improve Quality of Care for Children and Young Persons in Licensed Residential Settings.” July 2020. [ONTARIO’S QUALITY STANDARDS FRAMEWORK - A Resource Guide to Improve the Quality of Care or Children and Young Persons in Licensed Residential Settings \(gov.on.ca\)](https://www.ontario.ca/gov/ontario-quality-standards-framework-a-resource-guide-to-improve-the-quality-of-care-or-children-and-young-persons-in-licensed-residential-settings)

⁸⁶ Lindsay, M.J. (2003). “Towards a Theory of ‘Careism’: Discrimination against Young People in Care. Children’s Rights in Residential Care.” The Centre for Residential Childcare. Glasgow

⁸⁷ Article 20 – UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3. <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

⁸⁸ National Conference of State Legislatures website: <https://www.ncsl.org/research/human-services/foster-care-bill-of-rights.aspx>

⁸⁹ Rights of children and youths under the supervision of the Commissioner of Children and Families, CT Gen Stat § 17a-16 (2019) <https://law.justia.com/codes/connecticut/2019/title-17a/chapter-319/section-17a-16/>

⁹⁰ Reyes, Jill. “Child Welfare Bills of Rights for Foster Children.” American Bar Association. December 1, 2012. https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol_31/december_2012/child_welfare_billsofrightsforfosterchildren0/

⁹¹ Maluccio, A., Fein, E. & Olmstead, K. (1986). *Permanency Planning for Children: Concepts and Methods*. London: Tavistock Publications.

⁹² Fein, E. & Maluccio, A. (1992). Permanency planning: Another remedy in jeopardy? *Social Service Review*, 66(3), 335-348. Brydon, K. (2004). Barriers to permanency planning: What the literature suggests. *Children Australia*, 29(3), 16-21.

⁹³ Barber, J.G. & Delfabbro, P.H. (2003). Placement stability and the psychosocial wellbeing of children in foster care. *Research on Social Work Practice*, 13(4), 415-431. Osmond, J. & Tilbury, C. (2012). Permanency planning concepts. *Children Australia*, 37(3), 100-107.

⁹⁴ Stott, T. & Gustavsson, N. (2010). Balancing permanency and stability for youth in foster care. *Children and Youth Services Review*, 32(4), 619-625.

⁹⁵ Courtney, M. E. & Dworsky, A. (2006). Early outcomes for young adults transitioning from out-of-home care in the USA. *Child and Family Social Work*, 11(3), 209-219.

⁹⁶ Massingham, R. & Pecora, J. (2004). Providing better opportunities for older children in the child welfare system. *The Future of Children*, 14(1), 151-173. Furstenberg, F. & Hughes, E. (1995). Social capital and successful development among at-risk youth. *Journal of Marriage and Family*, 57(3), 580-592. Scholte, J., van Lieshout, M., & van Aken, G. (2001). Perceived relational support in adolescence: Dimensions, configurations, and adolescent adjustment. *Journal of Research & Adolescence*, 11(1), 71-94. Cashmore, J. & Paxton, M. (1996). Longitudinal Study of Wards Leaving Care. http://www.community.nsw.gov.au/docswr/assets/main/documents/research_wards_leavingcare.pdf

⁹⁷ UN General Assembly, *Guidelines for the Alternative Care of Children : resolution / adopted by the General Assembly*, 24 February 2010, A/RES/64/142, available at: <https://www.refworld.org/docid/4c3acd162.html>

- ⁹⁸ UN General Assembly, *Guidelines for the Alternative Care of Children : resolution / adopted by the General Assembly*, 24 February 2010, A/RES/64/142, available at: <https://www.refworld.org/docid/4c3acd162.html>
- ⁹⁹ Anglin, J.P., (2003). *Pain, normality and the struggle for congruence: Reinterpreting residential care for children and youth*. New York: Haworth Press.
- ¹⁰⁰ Government of New Brunswick, Department of Social Development: https://www2.gnb.ca/content/gnb/en/services/services_renderer.200590.Children_s_Residential_Services_-_Child_Care_Residential_Centres.html
- ¹⁰¹ UN General Assembly, *Guidelines for the Alternative Care of Children : resolution / adopted by the General Assembly*, 24 February 2010, A/RES/64/142, available at: <https://www.refworld.org/docid/4c3acd162.html>
- ¹⁰² *Child, Youth and Family Services Act*, 2017, S.O. 2017, c. 14, Sched. 1 <https://www.ontario.ca/laws/statute/17c14>
- ¹⁰³ National Scientific Council on the Developing Child and the National Forum on Early Childhood Policy and Programs. “The Foundations of Lifelong Health are Built in Early Childhood.” Harvard University Center on the Developing Child. 2010. <http://developingchild.harvard.edu/wpcontent/uploads/2010/05/Foundations-of-Lifelong-Health.pdf>
- ¹⁰⁴ Article 19 – UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3. <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
- ¹⁰⁵ Department of Social Development, “Child Care Residential Service Standards,” December, 2010.
- ¹⁰⁶ Article 37 – UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3. <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
- ¹⁰⁷ UN General Assembly, *Guidelines for the Alternative Care of Children : resolution / adopted by the General Assembly*, 24 February 2010, A/RES/64/142, available at: <https://www.refworld.org/docid/4c3acd162.html>
- ¹⁰⁸ UN General Assembly, *Guidelines for the Alternative Care of Children : resolution / adopted by the General Assembly*, 24 February 2010, A/RES/64/142, available at: <https://www.refworld.org/docid/4c3acd162.html>
- ¹⁰⁹ Children's Services and Resources, NB Reg 2020-21, <<https://canlii.ca/t/54x6r>>
- ¹¹⁰ UN General Assembly, *Guidelines for the Alternative Care of Children : resolution / adopted by the General Assembly*, 24 February 2010, A/RES/64/142, available at: <https://www.refworld.org/docid/4c3acd162.html>
- ¹¹¹ UN General Assembly, *Guidelines for the Alternative Care of Children : resolution / adopted by the General Assembly*, 24 February 2010, A/RES/64/142, available at: <https://www.refworld.org/docid/4c3acd162.html>
- ¹¹² Auditor General of New Brunswick. Report of the Auditor General of New Brunswick: Volume II Performance Audit 2019. <https://www.gnb.ca/legis/business/currentsession/59/59-3/LegDoc/Eng/December2019/2019AGVolumeII-E.pdf>
- ¹¹³ Office of the Child and Youth Advocate, *More Care Less Court: Keeping Youth out of the Criminal Justice System*, July, 2015, p. 47. <https://cyanb.ca/images/MoreCareLessCourt.pdf>
- ¹¹⁴ McCrory, E., De Brito, S. A., and Viding, E. (2012). The link between child abuse and psychopathology: A review of neurobiological and genetic research. *Journal of the Royal Society of Medicine*, 105(4), 151–156.
- ¹¹⁵ Auditor General of New Brunswick. Report of the Auditor General of New Brunswick: Volume II Performance Audit 2019. <https://www.gnb.ca/legis/business/currentsession/59/59-3/LegDoc/Eng/December2019/2019AGVolumeII-E.pdf>
- ¹¹⁶ Auditor General of New Brunswick. Report of the Auditor General of New Brunswick: Volume II Performance Audit 2019. <https://www.gnb.ca/legis/business/currentsession/59/59-3/LegDoc/Eng/December2019/2019AGVolumeII-E.pdf>
- ¹¹⁷ UN General Assembly, *Guidelines for the Alternative Care of Children : resolution / adopted by the General Assembly*, 24 February 2010, A/RES/64/142, available at: <https://www.refworld.org/docid/4c3acd162.html>
- ¹¹⁸ Government of New Brunswick, Auditor General. “2013 Auditor General's Report – Volume II.” 2013. <https://www2.gnb.ca/content/agnb-vgnb/en/publications/reports/year/2013.html#2013v1=Page2&2013v2=Page4>
- ¹¹⁹ Province of New Brunswick. News Release. March 10, 2020. https://www2.gnb.ca/content/gnb/en/news/news_release.2020.03.0103.html
- ¹²⁰ UN General Assembly, *Guidelines for the Alternative Care of Children : resolution / adopted by the General Assembly*, 24 February 2010, A/RES/64/142, available at: <https://www.refworld.org/docid/4c3acd162.html>
- ¹²¹ Fisher, Philip A, and Kathryn S Gilliam. “Multidimensional Treatment Foster Care: An Alternative to Residential Treatment for High Risk Children and Adolescents.” *Intervencion psicosocial* vol. 21,2 (2012): 195-203. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC328596/>
- ¹²² Lambe, Y., McLennan, R., (2009). *Drugs in our system: An exploratory study on the chemical management of Canadian systems youth*. Ottawa, ON: National Youth in Care Network.

- ¹⁴⁸ Article 14 – UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3. <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
- ¹⁴⁹ UN General Assembly, *Guidelines for the Alternative Care of Children : resolution / adopted by the General Assembly*, 24 February 2010, A/RES/64/142, available at: <https://www.refworld.org/docid/4c3acd162.html>
- ¹⁵⁰ Department of Social Development. “Foster Family Service Standards.” February, 2013.
- ¹⁵¹ Medical Consent of Minors Act, SNB 1976, c M-6.1, <<https://canlii.ca/t/553j5>>
- ¹⁵² Article 31 – UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3. <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
- ¹⁵³ Canadian Coalition for the Rights of Children. “Working Document: Right to Play, Background Research Children’s Right To Rest, Play, Recreation, Culture, And The Arts,” Draft text for civil society report to UN Committee on the Rights of the Child, Third/Fourth Report of Canada, 2010.
- ¹⁵⁴ Canadian Council on Learning. “Lessons in Learning: How Parents Foster Early Literacy”. 2006. <http://www.child-encyclopedia.com/sites/default/files/docs/suggestions/how-parents-foster-early-literacy.pdf>
- ¹⁵⁵ Pellis, Sergio & Vivien Pellis. *The Playful Brain: Venturing to the Limits of Neuroscience*. Oxford: Oneworld Publications, 2009, at p. 94.
- ¹⁵⁶ Lester, Stuart & Wendy Russell. “*Play for a Change - Play, Policy and Practice: A Review of Contemporary Perspectives*,” London: Play England and the National Children’s Bureau, 2008.
- ¹⁵⁷ Pellis, Sergio & Vivien Pellis. “*Play and the Development of Social Engagement: A Comparative Perspective*,” in Marshall, Peter & Nathan Fox, eds. *The Development of Social Engagement: Neurological Perspectives*. New York: Oxford University Press, 2006.
- ¹⁵⁸ Lester, Stuart & Wendy Russel. “*Working Papers in Early Childhood Development – Children’s Right to Play: An Examination of the Importance of Play in the Lives of Children Worldwide*.” The Hague: The Bernard van Leer Foundation, 2010.
- ¹⁵⁹ UNICEF, “Sport, Recreation and Play.” New York: United Nations Children’s Fund, 2004.
- ¹⁶⁰ Guèvremont, A., Findlay, L., & Kohen, D. “Organized extracurricular activities: Are in-school and out-of-school activities associated with different outcomes for Canadian youth?” *Journal of School Health*, 2014.
- ¹⁶¹ Trost S. “Active Education: Physical Education, Physical Activity and Academic Performance. A Research Brief.” Princeton, NJ: Active Living Research, a National Program of the Robert Wood Johnson Foundation. Summer 2009. http://activelivingresearch.org/sites/default/files/ALR_Brief_ActiveEducation_Summer2009.pdf
- ¹⁶² Article 17 – UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3. <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
- ¹⁶³ Article 17 – UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3. <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
- ¹⁶⁴ Article 17 – UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3. <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
- ¹⁶⁵ Article 13 – UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3. <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
- ¹⁶⁶ “wise.” *Merriam-Webster.com*. Merriam-Webster, 2020.
- ¹⁶⁷ “conscientious.” *Merriam-Webster.com*. Merriam-Webster, 2020.
- ¹⁶⁸ Lord Acton, letter to Richard Simpson, Jan. 23, 1861.
- ¹⁶⁹ Poitras, Jacques. “Province will review shocking child neglect case, minister says.” CBC News, February 8, 2018. <https://www.cbc.ca/news/canada/new-brunswick/province-responds-saint-john-neglect-case-1.4526346>
- ¹⁷⁰ Savoury, George. “Review of the Effectiveness of New Brunswick’s Child Protection System.” November, 2018. <https://www2.snb.ca/content/dam/gnb/Departments/sd-ds/pdf/Protection/Child/ReviewOfTheEffectivenessOfNewBrunswicksChildProtectionSystem.pdf>
- ¹⁷¹ Government of New Brunswick, Department of Social Development: https://www2.gnb.ca/content/gnb/en/services/services_renderer.200590.Children_s_Residential_Services_-_Child_Care_Residential_Centres.html
- ¹⁷² Government of New Brunswick. “A Youth Strategy for New Brunswick: Final Report, April 2011. <https://www2.gnb.ca/content/dam/gnb/Departments/sd-ds/pdf/Youth-Jeunesse/YouthStrategyNB.pdf>
- ¹⁷³ Article 13 – UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3. <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
- ¹⁷⁴ Article 15 – UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3. <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
- ¹⁷⁵ Education Act, SNB 1997, c E-1.12, s. 29(b) <<https://canlii.ca/t/5544f>>

-
- ¹⁷⁶ New Brunswick Child and Youth Advocate. Behind Closed Doors: A Story of Neglect. January, 2019. <https://www.cyanb.ca/images/PDFs/Behind-Closed-Doors.pdf>
- ¹⁷⁷ An Act Respecting the Role of the Attorney General, RSNB 2011, c 116, <<https://canlii.ca/t/54vzf>>
- ¹⁷⁸ Office of the Child and Youth Advocate, State of the Child Report 2017, November 2017. [State_of_the_Child_Report_2017.compressed.pdf \(cyanb.ca\)](https://www.cyanb.ca/images/PDFs/State_of_the_Child_Report_2017.compressed.pdf)
- ¹⁷⁹ Article 4 – UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3. <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
- ¹⁸⁰ Article 4 – UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3. <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
- ¹⁸¹ <http://web2.gov.mb.ca/laws/statutes/2016/pdf/c01716.pdf>
- ¹⁸² Office of the Child and Youth Advocate, Government of New Brunswick. 'We Are What We Live'. February, 2020.
- ¹⁸³ Government of Ontario. "Child Welfare Redesign." <https://www.ontario.ca/page/child-welfare-redesign>
- ¹⁸⁴ UN General Assembly, *Guidelines for the Alternative Care of Children : resolution / adopted by the General Assembly*, 24 February 2010, A/RES/64/142, available at: <https://www.refworld.org/docid/4c3acd162.html>
- ¹⁸⁵ Child, Youth and Senior Advocate Act, SNB 2007, c C-2.7, s. 13(1)(e) <<https://canlii.ca/t/53815>>
- ¹⁸⁶ Department of Social Development, Child in Care Program Practice Standards. "Standard 3: Assuming Responsibility for a Child in Care."
- ¹⁸⁷ Child, Youth and Senior Advocate Act, SNB 2007, c C-2.7.
- ¹⁸⁸ Provincial Offences Procedure Act, SNB 1987, c P-22.1.
- ¹⁸⁹ Department of Social Development, Child in Care Program Practice Standards. "Standard 1: The Child in Care's Rights – Case Specific Considerations."
- ¹⁹⁰ Children's Services and Resources, NB Reg 2020-21, <<https://canlii.ca/t/54x6r>>
- ¹⁹¹ *Family Services Act*, SNB 1980, c F-2.2, preamble
- ¹⁹² *Family Services Act*, SNB 1980, c F-2.2, section 1
- ¹⁹³ Article 3 – UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3. <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
- ¹⁹⁴ Article 12 – UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3. <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
- ¹⁹⁵ Family Services Act, SNB 1980, c F-2.2, section 45(3)(c). <http://laws.gnb.ca/en/ShowPdf/cs/F-2.2.pdf>
- ¹⁹⁶ SNB 1980, c F-2.2 | Family Services Act, section 45(3)(c)
- ¹⁹⁷ RSNB 1973, c I-13 | Interpretation Act, section 17.
- ¹⁹⁸ Article 12 – UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3.
- ¹⁹⁹ UN General Assembly, *Guidelines for the Alternative Care of Children : resolution / adopted by the General Assembly*, 24 February 2010, A/RES/64/142, available at: <https://www.refworld.org/docid/4c3acd162.html>
- ²⁰⁰ Lord Bingham. *The Rule of Law*. London, England: Penguin Books, 2011.
- ²⁰¹ Lord Bingham. *The Rule of Law*. London, England: Penguin Books, 2011.
- ²⁰² New Brunswick *Education Act*, SNB 1997, c E-1.12, section 24(4)
- ²⁰³ Government of Canada, Department of justice. "Canada's Justice System, the Canadian Charter of Rights and Freedoms, section 7 – Life, liberty and security of the person." <https://www.justice.gc.ca/eng/cs/sj/rfc-dlc/ccrf-cddl/check/art7.html>
- ²⁰⁴ Lord Bingham. *The Rule of Law*. London, England: Penguin Books, 2011.
- ²⁰⁵ Lord Bingham. *The Rule of Law*. London, England: Penguin Books, 2011.
- ²⁰⁶ UN General Assembly, *Guidelines for the Alternative Care of Children : resolution / adopted by the General Assembly*, 24 February 2010, A/RES/64/142, available at: <https://www.refworld.org/docid/4c3acd162.html>
- ²⁰⁷ Office of the Child and Youth Advocate, State of the Child Report 2020, November 2020. [2020-State-of-the-Child-Report.pdf \(cyanb.ca\)](https://www.cyanb.ca/images/PDFs/2020-State-of-the-Child-Report.pdf)
- ²⁰⁸ Auditor General of New Brunswick. Report of the Auditor General of New Brunswick: Volume II Performance Audit 2019. <https://www.gnb.ca/legis/business/currentsession/59/59-3/LegDoc/Eng/December2019/2019AGVolumeII-E.pdf>
- ²⁰⁹ Children in Care Services Regulation, NB Reg 91-170, <<http://canlii.ca/t/53p3t>>
- ²¹⁰ Children's Services and Resources, NB Reg 2020-21, <<http://canlii.ca/t/54b26>>
- ²¹¹ Article 13 – UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3.

- ²¹² Article 15 – UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3.
- ²¹³ <https://www.partnersforyouth.ca/en/programs/the-new-brunswick-youth-in-care-network/>
- ²¹⁴ New Brunswick Youth in Care Network. “[A Long Road Home – An Account of the First Ever Youth in Care Hearings in NB](http://www.partnersforyouth.ca/en/wp-content/uploads/sites/2/2016/10/YIC-Hearings-A-Long-Road-Home.pdf),” 2013. <http://www.partnersforyouth.ca/en/wp-content/uploads/sites/2/2016/10/YIC-Hearings-A-Long-Road-Home.pdf>
- ²¹⁵ Government of New Brunswick. “Response To A Long Road Home,” 2014. <http://www2.gnb.ca/content/dam/gnb/Departments/sd-ds/pdf/GNBResponseToALongRoadHome.pdf>
- ²¹⁶ New Brunswick Youth in Care Network. “Repaving the Long Road Home,” 2020. [Repaving the Long Road Home – Partners For Youth](http://www.partnersforyouth.ca/en/wp-content/uploads/sites/2/2020/08/Repaving-the-Long-Road-Home-Partners-For-Youth.pdf)
- ²¹⁷ Government of New Brunswick, Department of Social Development. Child in Care Program Practice Standards. July 11th, 2018.
- ²¹⁸ *Family Services Act*, SNB 1980, c F-2.2, s. 45(1)(a).
- ²¹⁹ UN General Assembly, *Guidelines for the Alternative Care of Children : resolution / adopted by the General Assembly*, 24 February 2010, A/RES/64/142, available at: <https://www.refworld.org/docid/4c3acd162.html>
- ²²⁰ *Family Services Act*, SNB 1980, c F-2.2, preamble
- ²²¹ Article 3 – UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3. <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
- ²²² Bingham, Tom. *The Rule of Law*, Penguin Press, London 2010, p. 38.
- ²²³ Office of the Child and Youth Advocate, Government of New Brunswick. “Child Rights Impact Assessment: A Primer for New Brunswick.” [CRIA Primer New Brunswick.pdf \(cyanb.ca\)](http://www.cria-nb.ca/Portals/0/CRIA_Primer_New_Brunswick.pdf)
- ²²⁴ United Nations Committee on the Rights of the Child. “General Comment No. 5: General Measures of Implementation for the Convention on the Rights of the Child.” 2005. CRI/GC/2003/5, at paras 45-47.
- ²²⁵ Article 42 – UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3.
- ²²⁶ Bingham, Tom. *The Rule of Law*, Penguin Press, London 2010, p. 38.
- ²²⁷ Department of Social Development, Child in Care Program Practice Standards. “Standard 3: Assuming Responsibility for a Child in Care.”
- ²²⁸ See, for example the following from North America and Europe. Ohio Youth Advisory Board. *Foster Youth Rights Handbook*, <http://www.odjfs.state.oh.us/forms/num/JFS01677/pdf/>; Federation of BC Youth in Care Networks, “Your Life Your Rights: A guide to the Rights of Young People in British Columbia,” <https://fbcyicn.ca/sites/default/files/know-rights-online.pdf>; New York State Office of Children and Family Services, “Handbook for Youth in Foster Care,” <https://files.eric.ed.gov/fulltext/ED496698.pdf>; Dublin Ireland Health Services Executive, “Your Guide to Living in Residential Care,” https://www.usla.ie/uploads/content/Publications_Residential_Your_Guide_to_living_in_Res_Care.pdf
- ²²⁹ *Child, Youth and Family Services Act*, 2017, SO 2017, c 14, Sch 1
- ²³⁰ See, for example: National Scientific Council on the Developing Child and the National Forum on Early Childhood Policy and Programs. “The Foundations of Lifelong Health are Built in Early Childhood.” Harvard University Center on the Developing Child. 2010. <http://developingchild.harvard.edu/wp-content/uploads/2010/05/Foundations-of-Lifelong-Health.pdf>
- ²³¹ Lindquist, T. (2015, April 23). Are children really resilient? *Psychological Assessment & Treatment Center*. Online: <http://www.utahcountycounselors.com/2015/04/23/are-children-really-resilient/>
- ²³² Brody, G. H., Gray, J. C., Yu, T., Barton, A. W., and Beach, S. R. (2017). Protective prevention effects on the association of poverty with brain development. *JAMA Pediatrics*, 171, 46–52.
- ²³³ Teicher, M. H., Andersen, S. L., Polcari, A., Anderson, C. M., Navalta, C. P., & Kim, D. M. (2003). The neurobiological consequences of early stress and childhood maltreatment. *Neuroscience & Biobehavioral Reviews*, 27(1), 33–44.
- ²³⁴ North American Council on Adoptable Children. (n.d.). Ambiguous loss haunts foster and adopted children. Retrieved February 3, 2017, from www.nacac.org/adoptalk/ambigloss.html
- ²³⁵ Brody, G. H., Yu, T., Chen, E., and Miller, G. E. (2017). Family-centered prevention ameliorates the association between adverse childhood experiences and prediabetes status in young Black adults. *Preventive Medicine*, 100, 117–122.
- ²³⁶ Jensen, F. E., & Nutt, A. E. (2015). *The teenage brain: A neuroscientist’s survival guide to raising adolescents and young adults*. New York, NY: HarperCollins Publishers.

- ²³⁷ Hoxby, C. M., and Avery, C. (2012). *The Missing “One-Offs”: The Hidden Supply of High-Achieving, Low-Income Students*. Working Paper. Cambridge, MA: National Bureau of Economic Research. Available: <https://www.nber.org/papers/w18586>.
- ²³⁸ Harris, M., and Fallot, R. D. (2001). Envisioning a trauma-informed service system. *New Directions for Mental Health Services*, 2001(89), 3–23.
- ²³⁹ Perry B. D. 2006. Applying principles of neurodevelopment to clinical work with maltreated and traumatized children: The neurosequential model of therapeutics. In N. B. Webb (Ed.), *Working with Traumatized Youth in Child Welfare* (pp. 27–52). New York, NY: Guilford Press.
- ²⁴⁰ McInerney, M., and McKlindon, A. (2014). *Unlocking the Door to Learning: Trauma-Informed Classrooms & Transformational Schools Maura*. Available: <http://www.vtnea.org/uploads/files/Trauma-Informed-in-Schools-Classrooms-FINAL-December2014-2.pdf>.
- ²⁴¹ National Academies of Sciences, Engineering, and Medicine. (2019). *The Promise of Adolescence: Realizing Opportunity for All Youth*. Washington, DC: The National Academies Press. doi: <https://doi.org/10.17226/25388>. See also: Ford, J. D., and Blaustein, M. E. (2013). Systemic self-regulation: A framework for trauma-informed services in residential juvenile justice programs. *Journal of Family Violence*, 28, 665–677.
- ²⁴² Riebschleger, J., Day, A., and Damashek, A. (2015). Foster care youth share stories of trauma before, during, and after placement: Youth voices for building trauma-informed systems of care. *Journal of Aggression, Maltreatment & Trauma*, 24(4), 339–360.
- ²⁴³ Institute of Medicine (IOM) and National Research Council (NRC). 2015. *Transforming the workforce for children birth through age 8: A unifying foundation*. Washington, DC: The National Academies Press. https://www.ncbi.nlm.nih.gov/books/NBK310532/pdf/Bookshelf_NBK310532.pdf
- ²⁴⁴ Danese, A., and B. S. McEwen. 2012. Adverse childhood experiences, allostasis, allostatic load, and age-related disease. *Physiology & Behavior* 106(1):29-39.
- ²⁴⁵ Shonkoff, J. P., and A. S. Garner. 2012. The lifelong effects of early childhood adversity and toxic stress. *Official Journal of the American Academy of Pediatrics* 129(1): e232-e246.
- ²⁴⁶ Rutter, M. 2006. *Genes and behaviour: Nature-nurture interplay explained*. Oxford: Blackwell.
- ²⁴⁷ Fox, S. E., P. Levitt, and C. A. Nelson, 3rd. 2010. How the timing and quality of early experiences influence the development of brain architecture. *Child Development* 81(1):28-40.
- ²⁴⁸ Strachan, T., and A. P. Read. 2011. *Human molecular genetics*. New York: Garland Science.
- ²⁴⁹ Essex, M. J., W. T. Boyce, C. Hertzman, L. L. Lam, J. M. Armstrong, S. M. Neumann, and M. S. Kobor. 2013. Epigenetic vestiges of early developmental adversity: Childhood stress exposure and DNA methylation in adolescence. *Child Development* 84(1):58-75. See also: Borghol, N., M. Suderman, W. McArdle, A. Racine, M. Hallett, M. Pembrey, C. Hertzman, C. Power, and M. Szyf. 2012. Associations with early-life socio-economic position in adult DNA methylation. *International Journal of Epidemiology* 41(1):62-74.
- ²⁵⁰ McGowan, P. O., A. Sasaki, A. C. D’Alessio, S. Dymov, B. Labonte, M. Szyf, G. Turecki, and M. J. Meaney. 2009. Epigenetic regulation of the glucocorticoid receptor in human brain associates with childhood abuse. *Nature Neuroscience* 12(3):342-348.
- ²⁵¹ National Academies of Sciences, Engineering, and Medicine. (2019). *The Promise of Adolescence: Realizing Opportunity for All Youth*. Washington, DC: The National Academies Press. doi: <https://doi.org/10.17226/25388>
- ²⁵² Fang, C. Y., Egleston, B. L., Brown, K. M., Lavigne, J. V., Stevens, V. J., Barton, B. A., Chandler, D. W., and Dorgan, J. F. (2009). Family cohesion moderates the relation between free testosterone and delinquent behaviors in adolescent boys and girls. *Journal of Adolescent Health* 44(6), 590–597. See also: Booth, A., Johnson, D.R., Granger, D. A., Crouter. A. C., and McHale, S. (2003). Testosterone and child and adolescent adjustment: The moderating role of parent-child relationships. *Developmental Psychology*, 39(1), 85–98.
- ²⁵³ National Academies of Sciences, Engineering, and Medicine. (2019). *The Promise of Adolescence: Realizing Opportunity for All Youth*. Washington, DC: The National Academies Press. doi: <https://doi.org/10.17226/25388>
- ²⁵⁴ Young, E. A., and Altemus, M. (2004). Puberty, ovarian steroids, and stress. *Annals of the New York Academy of Sciences*, 1021, 124–133.
- ²⁵⁵ Mendle, J., Leve, L. D., Van Ryzin, M., Natsuaki, M. N., and Ge, X. (2011). Associations between early life stress, child maltreatment, and pubertal development among girls in foster care. *Journal of Research on Adolescence*, 21(4), 871–880.
- ²⁵⁶ Wise, L. A., Palmer, J. R., Rothman, E. F., and Rosenberg, L. (2009). Childhood abuse and early menarche: Findings from the Black Women’s Health Study. *American Journal of Public Health*, 99(S2), S460–S466. See also: Bergevin, T. A., Bukowski, W. M., and Karavasilis, L. (2003). Childhood sexual abuse and pubertal timing:

Implications for long-term psychosocial adjustment. In C. Hayward (Ed.), *Gender Differences at Puberty* (pp. 187–216). New York, NY: Cambridge University Press.

²⁵⁷ National Academies of Sciences, Engineering, and Medicine. (2019). *The Promise of Adolescence: Realizing Opportunity for All Youth*. Washington, DC: The National Academies Press. doi: <https://doi.org/10.17226/25388>

²⁵⁸ National Academies of Sciences, Engineering, and Medicine. (2019). *The Promise of Adolescence: Realizing Opportunity for All Youth*. Washington, DC: The National Academies Press. doi: <https://doi.org/10.17226/25388>

²⁵⁹ National Academies of Sciences, Engineering, and Medicine. (2019). *The Promise of Adolescence: Realizing Opportunity for All Youth*. Washington, DC: The National Academies Press. doi: <https://doi.org/10.17226/25388>

²⁶⁰ National Academies of Sciences, Engineering, and Medicine. (2019). *The Promise of Adolescence: Realizing Opportunity for All Youth*. Washington, DC: The National Academies Press. doi: <https://doi.org/10.17226/25388>

²⁶¹ Fine Maron, D. (2015). Early puberty: causes and effects. *Scientific American*. Retrieved May 31, 2017, <https://www.scientificamerican.com/article/early-puberty-causes-and-effects/>

²⁶² The Jim Casey Youth Opportunities Initiative. (2011). The adolescent brain: New research and its implications for young people transitioning from foster care. www.aecf.org/resources/the-adolescent-brain-foster-care

²⁶³ Crone, E. A., and Steinbeis, N. (2017). Neural perspectives on cognitive control development during childhood and adolescence. *Trends in Cognitive Sciences*, 21(3), 205–215.

²⁶⁴ Casey, B. J., and Caudle, K. (2013). The teenage brain: Self control. *Current Directions in Psychological Science*, 22(2), 82–87.

²⁶⁵ Hart, Heledd and Katya Rubia. “Neuroimaging of child abuse: a critical review.” *Frontiers in Human Neuroscience*, March 2012. <https://doi.org/10.3389/fnhum.2012.00052>

²⁶⁶ Jensen, F. E., & Nutt, A. E. (2015). *The teenage brain: A neuroscientist’s survival guide to raising adolescents and young adults*. New York, NY: HarperCollins Publishers.

²⁶⁷ Ellis, B. J., W. T. Boyce, J. Belsky, M. J. Bakermans-Kranenburg, and M. H. van Ijzendoorn (2011). Differential susceptibility to the environment: An evolutionary—neurodevelopmental theory. *Development and Psychopathology* 23(1): 7-28. See also: Obradovic, J., N. R. Bush, J. Stamperdahl, N. E. Adler, and W. T. Boyce (2010). Biological sensitivity to context: The interactive effects of stress reactivity and family adversity on socioemotional behavior and school readiness. *Child Development* 81(1): 270-289.

²⁶⁸ Belsky, J., and M. H. van Ijzendoorn (2015). What works for whom? Genetic moderation of intervention efficacy. *Development and Psychopathology* 27(Special Issue 01): 1-6.

²⁶⁹ Conger, R. D., Conger, K. J., and Martin, M. J. (2010). Socioeconomic status, family processes, and individual development. *Journal of Marriage and Family*, 72(3), 685–704.

²⁷⁰ Hjemdal, O., Vogel, P. A., Solem, S., Hagen, K., and Stiles, T. C. (2011). The relationship between resilience and levels of anxiety, depression, and obsessive-compulsive symptoms in adolescents. *Clinical Psychology and Psychotherapy*, 18(4), 314–321. See also: Bond, L., Toumbourou, J. W., Thomas, L., Catalano, R. F., and Patton, G. (2005). Individual, family, school, and community risk and protective factors for depressive symptoms in adolescents: A comparison of risk profiles for substance use and depressive symptoms. *Prevention Science*, 6(2), 73–88.

²⁷¹ Dang, M. T., Conger, K. J., Breslau, J., and Miller, E. (2014). Exploring protective factors among homeless youth: The role of natural mentors. *Journal of Health Care for the Poor and Underserved*, 25(3), 1121–1138.

²⁷² Brody, G. H., Gray, J. C., Yu, T., Barton, A. W., Beach, S. R. H., Galván, A., MacKillop, J., Windle, M., Chen, E., Miller, G. E., and Sweet, L. H. (2017). Protective prevention effects on the association of poverty with brain development. *JAMA Pediatrics*, 171(1), 46–52. See also: Rutter, M. (2005). Environmentally mediated risks for psychopathology: Research strategies and findings. *Journal of the American Academy of Child and Adolescent Psychiatry*, 44(1), 3–18.

²⁷³ Jensen, F. E., & Nutt, A. E. (2015). *The teenage brain: A neuroscientist’s survival guide to raising adolescents and young adults*. New York, NY: HarperCollins Publishers.

²⁷⁴ Annie E. Casey Foundation. The Road to Adulthood: Aligning Child Welfare Practice With Adolescent Brain Development. July 22, 2017. <https://www.aecf.org/resources/the-road-to-adulthood/>

²⁷⁵ National Academies of Sciences, Engineering, and Medicine. (2019). *The Promise of Adolescence: Realizing Opportunity for All Youth*. Washington, DC: The National Academies Press. <https://doi.org/10.17226/25388>

²⁷⁶ National Academies of Sciences, Engineering, and Medicine. (2019). *The Promise of Adolescence: Realizing Opportunity for All Youth*. Washington, DC: The National Academies Press. <https://doi.org/10.17226/25388>

²⁷⁷ National Academies of Sciences, Engineering, and Medicine. (2019). *The Promise of Adolescence: Realizing Opportunity for All Youth*. Washington, DC: The National Academies Press. <https://doi.org/10.17226/25388>

- ²⁷⁸ van der Kolk, B. A. (2006). Clinical implications of neuroscience research in PTSD. *Annals of the New York Academy of Sciences*, 1071(1), 277–293.
- ²⁷⁹ Gasca-Gonzalez, S., & Walters, D. L. (2017). The development and psychology of young minds: Communities can prevent exploitation and facilitate rehabilitation. In *Human trafficking is a public health issue* (pp. 231–249). New York, NY: Springer International Publishing.
- ²⁸⁰ Scott, L. D., Munson, M. R., McMillen, J. C., & Ollie, M. T. (2006). Religious involvement and its association to risk behaviors among older youth in foster care. *American Journal of Community Psychology*, 38, 237–249. doi: 10.1007/s10464-006-9077-9
- ²⁸¹ Annie E. Casey Foundation. The Road to Adulthood: Aligning Child Welfare Practice With Adolescent Brain Development. July 22, 2017. <https://www.aecf.org/resources/the-road-to-adulthood/>
- ²⁸² Romer, D., Reyna, V. F., and Satterthwaite, T. D. (2017). Beyond stereotypes of adolescent risk taking: Placing the adolescent brain in environmental context. *Developmental Cognitive Neuroscience*, 27, 14–19.
- ²⁸³ Flannery, J., Berkman, E., and Pfeifer, J. (2018). Teens aren't just risk machines—there's a method to their madness. *The Conversation*, February 6. Available: <https://theconversation.com/teens-arent-just-risk-machines-theres-a-method-to-their-madness-89439>.
- ²⁸⁴ National Academies of Sciences, Engineering, and Medicine. (2019). *The Promise of Adolescence: Realizing Opportunity for All Youth*. Washington, DC: The National Academies Press. <https://doi.org/10.17226/25388>
- ²⁸⁵ UN General Assembly, *Guidelines for the Alternative Care of Children : resolution / adopted by the General Assembly*, 24 February 2010, A/RES/64/142, available at: <https://www.refworld.org/docid/4c3acd162.html>
- ²⁸⁶ Annie E. Casey Foundation. The Road to Adulthood: Aligning Child Welfare Practice With Adolescent Brain Development. July 22, 2017. <https://www.aecf.org/resources/the-road-to-adulthood/>
- ²⁸⁷ Ball, J. (2004). As if Indigenous knowledge and communities mattered: Transformative education in First Nations communities in Canada. *The American Indian Quarterly*, 28(3&4), 454-479.
- ²⁸⁸ Health Council Canada . (2012). Empathy, dignity and respect: Creating cultural safety for Aboriginal people in urban health care. Retrieved from http://cahr.uvic.ca/nearbc/media/docs/cahr50d1611574ca1-aboriginal_report_en_web_final.pdf
- ²⁸⁹ Fast, Elizabeth Marie-Ève Drouin-Gagné, Nahka Bertrand, Swaneige Bertrand and Zeina Allouche. “Incorporating diverse understandings of Indigenous identity: toward a broader definition of cultural safety for urban Indigenous youth.” *AlterNative: An International Journal of Indigenous Peoples*, Volume: 13 issue: 3, page(s): 152-160. <https://journals-sagepub-com.proxy.hil.unb.ca/doi/full/10.1177/1177180117714158>
- ²⁹⁰ New Brunswick Aboriginal Peoples Council. Nitap Wiguag: Personal Stories and Recommendations from Homeless Aboriginal Youth in New Brunswick. [Nitap Wiguag: \(nbapc.org\)](http://nitapwiguag.org)
- ²⁹¹ Sinha, V., Trocmé, N., Fallon, B., MacLaurin, B., Fast, E., Thomas Prokop, S. (2011). Kiskisik Awasisak: Remember the children. Understanding the overrepresentation of First Nations children in the child welfare system. Ottawa. Retrieved from http://cwrp.ca/sites/default/files/publications/en/FNCIS-2008_March2012_RevisedFinal.pdf
- ²⁹² Environics Institute . (2010). Urban aboriginal peoples survey. Retrieved from Toronto: http://www.uaps.ca/wp-content/uploads/2010/03/UAPS-Main-Report_Dec.pdf
- ²⁹³ *Daniels v. Canada (Indian Affairs and Northern Development)*, 2016 SCC 12. <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/15858/index.do>
- ²⁹⁴ *Indian Act*, RSC 1985, c I-5, <<https://canlii.ca/t/5439p>>
- ²⁹⁵ Quinn, Ashley (2020) Nurturing Identity Among Indigenous Youth in Care, *Child & Youth Services*, 41:1, 83-104, DOI: <https://www.tandfonline.com/doi/abs/10.1080/0145935X.2019.1656063>
- ²⁹⁶ Hope, Rebecca. “Discovering and Defining Indigenous Identity.” UNICEF Canada, blog. <https://www.unicef.ca/en/blog/discovering-and-defining-indigenous-identity>
- ²⁹⁷ Quinn, Ashley (2020) Nurturing Identity Among Indigenous Youth in Care, *Child & Youth Services*, 41:1, 83-104, DOI: <https://www.tandfonline.com/doi/abs/10.1080/0145935X.2019.1656063>
- ²⁹⁸ Fast, Elizabeth Marie-Ève Drouin-Gagné, Nahka Bertrand, Swaneige Bertrand and Zeina Allouche. “Incorporating diverse understandings of Indigenous identity: toward a broader definition of cultural safety for urban Indigenous youth.” *AlterNative: An International Journal of Indigenous Peoples*, Volume: 13 issue: 3, page(s): 152-160. <https://journals-sagepub-com.proxy.hil.unb.ca/doi/full/10.1177/1177180117714158>
- ²⁹⁹ Tolman, D. L., and McClelland, S. I. (2011). Normative sexuality development in adolescence: A decade in review, 2000-2009. *Journal of Research on Adolescence*, 21(1), 242–255.

- ³⁰⁰ See, for example, section 45(1): Where a child is in the care of the Minister under a custody agreement the Minister shall, to the extent the parent cannot, (a) provide care for the child that will meet his physical, emotional, religious, educational, social, cultural and recreational needs...
- ³⁰¹ Children's Services and Resources, NB Reg 2020-21, <<https://canlii.ca/t/54x6r>>
- ³⁰² Article 2 – UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3.
- ³⁰³ Government of Ontario. "Serving LGBT2SQ Children and Youth in the Child Welfare System: A Resource Guide." <http://www.children.gov.on.ca/htdocs/English/documents/LGBT2SQ/LGBT2SQ-guide-2018.pdf>
- ³⁰⁴ Fish, J. N., Baams, L., Wojciak, A. S., and Russell, S. T. (2019). Are sexual minority youth overrepresented in foster care, child welfare, and out-of-home placement? Findings from nationally representative data. *Child Abuse and Neglect*, 89, 203–211.
- ³⁰⁵ Children's Bureau. (2015). *A National Look at the Use of Congregate Care in Child Welfare* (p. 5). Washington, DC: U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau.
- ³⁰⁶ Article 23 – UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3. <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
- ³⁰⁷ RTI International. (2008). *Adolescents Involved with Child Welfare: A Transition to Adulthood*. Research Triangle Park, NC: RTI International. [Adolescents Involved with Child Welfare: A Transition to Adulthood \(psu.edu\)](https://www.rti.org/adolescents-involved-with-child-welfare-a-transition-to-adulthood)
- ³⁰⁸ Corrado, R. R., & Freedman, L. (2011). "Youth At-Risk of Serious and Life-Course Offending: Risk Profiles, Trajectories and Interventions. Research Report," Ottawa: Public Safety Canada. <http://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/lf-crs-ffndng/index-en.aspx>
- Yessine, A. (2011). "Risk Factors for Delinquency among Canadian Youth: Current knowledge and future directions. Research Report," Public Safety Canada. <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/fctrs-dlnqnc/index-eng.aspx>
- ³⁰⁹ Corrado, R. R., & Freedman, L. (2011). "Youth At-Risk of Serious and Life-Course Offending: Risk Profiles, Trajectories and Interventions. Research Report," Ottawa: Public Safety Canada. <http://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/lf-crs-ffndng/index-en.aspx>
- ³¹⁰ Corrado, R. R. & I. M. Cohen. "A needs profile of serious and/or violent Aboriginal youth in prison". *FORUM on Corrections Research*. 2002. <http://www.csc-scc.gc.ca/research/forum/e143/e143g-eng.shtml>
- ³¹¹ Newton, R. R., A. J. Litrownik, & J. Landsverk. (2000). "Children and youth in foster care: disentangling the relationship between problem behaviours and number of placements". *Child Abuse & Neglect*, 24.
- ³¹² National Center for Juvenile Justice. "Juvenile Offenders and Victims: 2014 National Report," 2014. <https://www.ojjdp.gov/ojstatbb/nr2014/downloads/NR2014.pdf>
- ³¹³ Cusick, G. R., Havlicek, J. R., and Courtney, M. E. (2012). Risk for arrest: The role of social bonds in protecting foster youth making the transition to adulthood. *American Journal of Orthopsychiatry*, 82(1), 19–31.
- ³¹⁴ *Youth Criminal Justice Act*, SC 2002, c 1, section 18. <<https://canlii.ca/t/544ls>>
- ³¹⁵ Sedlak, A., McPherson, K. (2010). "Youth's Needs and Services: Findings from the Survey of Youth in Residential Placement." U.S. Department of Justice.
- ³¹⁶ McMurtry, the Honourable Roy and A. Curling. "The Review of the Roots of Youth Violence: Executive Summary," Government of Ontario, Queen's Printer, 2008.
- ³¹⁷ See: Office of the Child and Youth Advocate, More Care Less Court: Keeping Youth out of the Criminal Justice System, July, 2015. <https://cyanb.ca/images/MoreCareLessCourt.pdf>
- ³¹⁸ Sprott, Jane and Nicole Myers. "Set up to Fail: The Unintended Consequences of Multiple Bail Conditions," Canadian Journal of Criminology and Criminal Justice, 2011.
- ³¹⁹ MacRae, Leslie, Lorne Bertrand, Joanne Paetsch & Joseph Hornick. "Relating Risk and Protective Factors to Youth Reoffending: A Two-Year Follow-Up," International Journal of Child, Youth and Family Studies, 2011.
- ³²⁰ Article 40 – UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3. <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
- ³²¹ Andrews, D.A. and James Bonta: *The Psychology of Criminal Conduct*, Fifth edition, Mathew Bender and Company, New Providence, New Jersey, 2010.
- ³²² Article 40 – UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3. <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
- ³²³ *Family Services Act*, SNB 1980, c F-2.2, s. 45(3).
- ³²⁴ New Brunswick Child and Youth Advocate. More Care Less Court: Keeping Youth out of the Criminal Justice System. July, 2015. [Whole file together MCLC Report Final.pdf \(squarespace.com\)](https://www.mclc.ca/whole-file-together-mclc-report-final.pdf)

- ³²⁵ Statistics Canada, “Legal Aid in Canada, 2013/2014,” Canadian Centre for Justice Statistics, Legal Aid Survey, Modified April 8th, 2015.
- ³²⁶ Statistics Canada. “Legal Aid in Canada 2019-20.” [Legal Aid in Canada 2019-20 \(justice.gc.ca\)](https://www.justice.gc.ca/legal-aid-in-canada-2019-20)
- ³²⁷ Government of Canada. Department of Justice. “Legislative Background: *An Act to amend the Criminal Code, the Youth Criminal Justice Act and other Acts and to make consequential amendments to other Acts*, as enacted (Bill C-75 in the 42nd Parliament),” 2019. <https://www.justice.gc.ca/eng/rp-pr/csj-sjc/jsp-sjp/c75/p3.html>
- ³²⁸ *Family Services Act*, SNB 1980, c F-2.2, section 29.2 <<https://canlii.ca/t/54r2z>>
- ³²⁹ *Keenan v. U.K.*, 2001-III; 33 EHRR 913. <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%22001-59365%22%7D>
- ³³⁰ Article 6 – UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3. <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
- ³³¹ Office of the Ombudsman and Child and Youth Advocate, Province of New Brunswick. “The Ashley Smith Report,” June 2008. <https://cyanb.ca/images/AshleySmith-e.pdf>
- ³³² National Center for Juvenile Justice. “Juvenile Offenders and Victims: 2014 National Report,” 2014. <https://www.ojdp.gov/ojstatbb/nr2014/downloads/NR2014.pdf>
- ³³³ Cusick, G. R., Havlicek, J. R., and Courtney, M. E. (2012). Risk for arrest: The role of social bonds in protecting foster youth making the transition to adulthood. *American Journal of Orthopsychiatry*, 82(1), 19–31.
- ³³⁴ UN General Assembly, *Guidelines for the Alternative Care of Children : resolution / adopted by the General Assembly*, 24 February 2010, A/RES/64/142, available at: <https://www.refworld.org/docid/4c3acd162.html>
- ³³⁵ Trevithick, P., (2003). Effective Relationship Based Practice: A Theoretical Exploration. *Journal of Social Work Practice*, 17(2), 163-176.
- ³³⁶ The Annie E. Casey Foundation. (2015). Too many teens: Preventing unnecessary out-of-home placements. Baltimore, MD: Author. Retrieved from www.aecf.org/m/resourcedoc/aecf-TooManyTeens-2015.pdf
- ³³⁷ Garner, A. S., and J. P. Shonkoff. 2012. Early childhood adversity, toxic stress, and the role of the pediatrician: Translating developmental science into lifelong health. *Pediatrics* 129(1): e224-e231.
- ³³⁸ Auditor General of New Brunswick. Report of the Auditor General of New Brunswick: Volume II Performance Audit 2019. <https://www.gnb.ca/legis/business/currentsession/59/59-3/LegDoc/Eng/December2019/2019AGVolumeII-E.pdf>
- ³³⁹ US Department of Health & Human Services, Administration for Children & Families. Child Welfare Information Gateway Podcast – Engaging Youth in Foster Care – transcript. https://www.acf.hhs.gov/sites/default/files/cb/cw_podcast_engaging_youth_foster_care_transcript.pdf
- ³⁴⁰ *Family Services Act*, SNB 1980, c F-2.2, preamble.
- ³⁴¹ Youth Criminal Justice Act, SC 2002, c 1, section 3(1)(b)(v).
- ³⁴² Article 9 – UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3. <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
- ³⁴³ Article 9 – UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3. <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
- ³⁴⁴ Article 8 – UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3. <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
- ³⁴⁵ Adopt US Kids. “Support Matters: Lessons from the Field on Services for Adoptive, Foster, and Kinship Care Families. March, 2015. Page 241. [support-matters-resource-guide.pdf \(adoptuskids.org\)](https://www.adoptuskids.org/support-matters-resource-guide.pdf)
- ³⁴⁶ Adopt US Kids. “Support Matters: Lessons from the Field on Services for Adoptive, Foster, and Kinship Care Families. March, 2015. Page 244. [support-matters-resource-guide.pdf \(adoptuskids.org\)](https://www.adoptuskids.org/support-matters-resource-guide.pdf)
- ³⁴⁷ Murphey, D., Bandy, T., Schmitz, H., & Moore K. A. (2013). “Caring adults: Important for positive child well-being.” Washington, DC: *Child Trends*. <http://www.childtrends.org/wp-content/uploads/2013/12/2013-54CaringAdults.pdf>
- ³⁴⁸ Scales, P. C., & Leffert, N. (1999). “Developmental assets: A synthesis of the scientific research on adolescent development.” Minneapolis: Search Institute.
- ³⁴⁹ *Family Services Act*, SNB 1980, c F-2.2, s. 31.01
- ³⁵⁰ Article 28 – UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3. <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
- ³⁵¹ Article 29 – UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3. <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
- ³⁵² UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III), article 26(1)

- ³⁵³ Brownell M, Chartier M, Au W, MacWilliam L, Schultz J, Guenette W, Valdivia J. *The Educational Outcomes of Children in Care in Manitoba*. Winnipeg, MB. Manitoba Centre for Health Policy, June 2015. https://cwrp.ca/sites/default/files/publications/en/cic_report_web.pdf
- ³⁵⁴ Pecora, P., et al. *Improving Family Foster Care: Findings from the Northwest Foster Care Alumni Study*. Seattle, WA: Casey Family Programs, 2005. <https://www.casey.org/northwest-alumni-study/>
- ³⁵⁵ Stone S. Child maltreatment, out-of-home placement and academic vulnerability: a fifteen-year review of evidence and future directions. *Child and Youth Services Review*. 2007;29:139-161. https://www.researchgate.net/publication/4824526_Child_maltreatment_out-of-home_placement_and_academic_vulnerability_A_fifteen-year_review_of_evidence_and_future_directions
- ³⁵⁶ *The Science of Neglect: The Persistent Absence of Responsive Care Disrupts the Developing Brain* (Working paper No. 12). (2012). Cambridge, MA: National Scientific Council on the Developing Child. <https://developingchild.harvard.edu/resources/the-science-of-neglect-the-persistent-absence-of-responsive-care-disrupts-the-developing-brain/>
- ³⁵⁷ Blome WW. What Happens to Foster Kids: Educational Experiences of a Random Sample of Foster Care Youth and a Matched Group of Non-Foster Care Youth. *Child and Adolescent Social Work Journal*. 1997;14(1):41-53. https://www.researchgate.net/publication/225966392_What_Happens_to_Foster_Kids_Educational_Experiences_of_a_Random_Sample_of_Foster_Care_Youth_and_a_Matched_Group_of_Non-Foster_Care_Youth
- ³⁵⁸ Gustavsson NS, MacEachron AE. No foster child left behind: Child welfare policy perspectives on education. *Families in Society: The Journal of Contemporary Social Services*. 2011;92(3):276-281.
- ³⁵⁹ National Working Group on Foster Care and Education. *Fostering Success in Education: National Factsheet on the Educational Outcomes of Children in Foster Care*. January, 2014. <https://foster-ed.org/fostering-success-in-education-national-factsheet-on-the-educational-outcomes-of-children-in-foster-care/>
- ³⁶⁰ Rutman D, Hubberstey C, Barlow A, Brown E. *When youth Age out of care - A report on baseline findings*. University of Victoria. University of Victoria. August, 2005. <https://www.uvic.ca/hsd/socialwork/assets/docs/research/whenyouthage.pdf>
- ³⁶¹ National Working Group on Foster Care and Education. *Fostering Success in Education: National Factsheet on the Educational Outcomes of Children in Foster Care*. January, 2014. <https://foster-ed.org/fostering-success-in-education-national-factsheet-on-the-educational-outcomes-of-children-in-foster-care/>
- ³⁶² Smithgall C, Jarpe-Ratner E, Walker L. Looking back, moving forward: Using integrated assessments to examine the educational experiences of children entering foster care ; Pecora PJ, Williams J, Kessler RC, et al. Assessing the educational achievements of adults who were formerly placed in family foster care. *Child & Family Social Work*. 2006;11(3):220-231 ; Castrechini S. Educational outcomes for court-dependent youth in San Mateo county. John W. Gardner Center for Youth and Their Communities. November, 2009. <https://gardnercenter.stanford.edu/publications/educational-outcomes-court-dependent-youth-san-mateo-county>
- ³⁶³ Scherr TG. Educational Experiences of Children in Foster Care: Meta-Analyses of Special Education, Retention and Discipline Rates. *School Psychology International*. 2007;28(4):419-436. <https://psycnet.apa.org/record/2007-17613-003>
- ³⁶⁴ Zorca, Catherine S., Amanda L.R. O'Reilly, Meredith Matone, Jin Long, Caroline L.Watts, David Rubin. The relationship of placement experience to school absenteeism and changing schools in young, school-aged children in foster care. *Children and Youth Services Review*, Volume 35, Issue 5, May 2013, Pages 826-833, May 2013. <https://www.sciencedirect.com/science/article/pii/S0190740913000704>
- ³⁶⁵ Nijs, M. M., Bun, C. J., Tempelaar, W. M., de Wit, N. J., Burger, H., Plevier, C. M., & Boks, M. P. (2014). "Perceived school safety is strongly associated with adolescent mental health problems." *Community Mental Health Journal*, 50(2), pp. 127-134.
- ³⁶⁶ Vitaro F. Linkages Between Early Childhood Behaviours, School Success, and High School Completion. 2nd ed. In: Tremblay et al. *Encyclopedia on Early Childhood Development*. May, 2014. <http://www.child-encyclopedia.com/sites/default/files/dossiers-complets/en/school-success.pdf> ; Hymel S, Ford L. School completion and academic success: The impact of early social-emotional competence. 2nd ed. In: Tremblay et al. *Encyclopedia on Early Childhood Development*. May, 2014. <http://www.child-encyclopedia.com/sites/default/files/dossiers-complets/en/school-success.pdf>
- ³⁶⁷ Hankivsky, Olena. *Cost Estimates of Dropping Out of High School in Canada*. Canadian Council on Learning, 2008.
- ³⁶⁸ Department of Social Development, "Child Care Residential Centre Service Standards for Operators," December 2010.

- ³⁶⁹ Hertzman, C. 1999. The biological embedding of early experience and its effects on health in adulthood. *Annals of the New York Academy of Sciences* 896:85-95.
- ³⁷⁰ Thompson, R. A. 2014. Stress and child development. *The Future of Children* 24(1) :41-59. See also: Lupien, S. J., B. S. McEwen, M. R. Gunnar, and C. Heim. 2009. Effects of stress throughout the lifespan on the brain, behaviour and cognition. *Nature Reviews Neuroscience* 10(6): 434-445.
- ³⁷¹ Lupien, S. J., B. S. McEwen, M. R. Gunnar, and C. Heim. 2009. Effects of stress throughout the lifespan on the brain, behaviour and cognition. *Nature Reviews Neuroscience* 10(6): 434-445.
- ³⁷² Institute of Medicine (IOM) and National Research Council (NRC). 2015. *Transforming the workforce for children birth through age 8: A unifying foundation*. Washington, DC: The National Academies Press. https://www.ncbi.nlm.nih.gov/books/NBK310532/pdf/Bookshelf_NBK310532.pdf
- ³⁷³ Education Act, SNB 1997, c E-1.12, s. 24(4) <<http://canlii.ca/t/544ms>>
- ³⁷⁴ Truth and Reconciliation Commission of Canada. *Calls to Action*. Winnipeg: Truth and Reconciliation Commission of Canada, 2015. http://trc.ca/assets/pdf/Calls_to_Action_English2.pdf
- ³⁷⁵ Huber, E., Donnelly, P. M., Rokem, and A., Yeatman, J. D. (2018). Rapid and widespread white matter plasticity during an intensive reading intervention. *Nature Communications*, 9, 2260. See also: Romeo, R. R., Christodoulou, J. A., Halverson, K. K., Murtagh, J., and Cyr, A. B. (2018). Socioeconomic status and reading disability: Neuroanatomy and plasticity in response to intervention. *Cerebral Cortex*, 28, 2297–2312.
- ³⁷⁶ Iuculano, T., Rosenberg-Lee, M., Richardson, J., Tenison, C., and Fuchs, L. (2015). Cognitive tutoring induces widespread neuroplasticity and remediates brain function in children with mathematical learning disabilities. *Nature Communications*, 6, 8453.
- ³⁷⁷ Kraus, N., Slater, J., Thompson, E. C., Hornickel, J., and Strait, D. L. (2014). Music enrichment programs improve the neural encoding of speech in at-risk children. *Journal of Neuroscience*, 34, 11913–11918. See also: Kraus, N., Hornickel, J., Strait, D.L., Slater, J., and Thompson, E. (2014a). Engagement in community music classes sparks neuroplasticity and language development in children from disadvantaged backgrounds. *Frontiers in Psychology*, 5, 1403.
- ³⁷⁸ Moore v. British Columbia (Education), 2012 SCC 61 (CanLII), [2012] 3 SCR 360, <<https://canlii.ca/t/ftp16>>
- ³⁷⁹ *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, article 13(1). <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>
- ³⁸⁰ Reynolds A., Chen C. and Herbers J. “School mobility and educational success: A research synthesis and evidence on prevention.” Paper Presented at the Workshop on the Impact of Mobility and Change on the Lives of Young Children, Schools, and Neighborhoods, Board on Children, Youth, and Families, National Research Council, June 29-30, 2009, Washington, DC. June 22, 2009. <http://www.nationalacademies.org/hmd/~media/E82266FA9F9B4D6C87535F1E2FC1B1D9.ashx>
- ³⁸¹ Ontario Association of Children’s Aid Societies. Youth leaving care: an OACAS survey of youth and CAS staff. Ontario Association of Children’s Aid Societies. 2006. <https://cwrp.ca/publications/youth-leaving-care-oacas-survey-cas-youth-and-staff> ; Stoddard JK. Using research and outcome data to improve educational services and supports for young people in care: a case study of a local children’s aid society in Ontario. *Children and Youth Services Review*. 2012;34(6):1154-1160 ; National Working Group on Foster Care and Education. “Education is the Lifeline for Youth in Foster Care.” July, 2011. http://www.fostercareandeducation.org/portals/0/dmx/2012/08/file_20120829_140902_sAMYaA_0.pdf
- ³⁸² Wiegmann W, Putnam-Hornstein E, Barrat VX, Magruder J, Needell B. The Invisible Achievement Gap. How the Foster Care Experiences of California Public School Students Are Associated with Their Education Outcomes. Part Two. 2014. <https://stuartfoundation.org/wp-content/uploads/2016/04/IAGpart2.pdf>
- ³⁸³ Hymel S, Ford L. School completion and academic success: The impact of early social-emotional competence. 2nd ed. In: Tremblay et al. *Encyclopedia on Early Childhood Development*. May, 2014. <http://www.child-encyclopedia.com/sites/default/files/dossiers-complets/en/school-success.pdf>
- ³⁸⁴ See for example: Brownell MD, Roos NP, MacWilliam L, Leclair L, Ekuma O, Fransoo R. “Academic and social outcomes for high-risk youths in Manitoba.” *Canadian Journal of Education*. 2010;33(4):804-836. <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=2ahUKEwi5o7CiuatbnAhXCdd8KHU6EA0sQFjAAegQIBRAB&url=http%3A%2F%2Fjournals.sfu.ca%2Fceje%2Findex.php%2Fceje-rce%2Farticle%2Fdownload%2F2188%2F1814&usq=AOvVaw0kFIFZqWtbsEFA-9k85cSH>
- ³⁸⁵ U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation. (2008). *Coming of age: Employment outcomes for youth who age out of foster care through their middle 20s*. Retrieved February 6, 2017, from <https://aspe.hhs.gov/basic-report/coming-age-employment-outcomes-youth-who-age-out-foster-care-through-their-middle-twenties>

- ³⁸⁶ Article 23(3). *Convention on the Rights of the Child.*, 7 March 1990, E/CN.4/RES/1990/74. <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
- ³⁸⁷ New Brunswick Premier's Council on Disabilities. "New Brunswick's Disability Action Plan for Persons with a Disability: Accountable Path Forward to an Equal Opportunity!" July 2020. <https://www2.gnb.ca/content/dam/gnb/Departments/pcsdpcpmcph/pdf/publications/DAP-APFEO-2020.pdf>
- ³⁸⁸ Brownell, Marni, et al. *The Educational Outcomes of Children in Care in Manitoba*. Manitoba Centre for Health Policy. 2015.
- ³⁸⁹ Darmody M, McMahon L, Banks J, et al. *Education of children in care in Ireland: An exploratory study*. Ombudsman for Children. May, 2013. https://www.oco.ie/app/uploads/2013/05/11873_Education_Care_SPI.pdf
- ³⁹⁰ Jaffe, P., Wolfe, D. A., & M. Campbell. *Growing up with domestic violence: Assessment, intervention & prevention strategies for children & adolescents*. Cambridge, MA: Hogrefe & Huber. 2011.
- ³⁹¹ Jaffe, P., Wolfe, D. A., & M. Campbell. *Growing up with Domestic Violence: Assessment, Intervention & Prevention Strategies for Children & Adolescents*. Cambridge, MA: Hogrefe & Huber. 2011
- ³⁹² Blum, R. W., & Ellen, J. "Work group V: Increasing the capacity of schools, neighborhoods, and communities to improve adolescent health outcomes." *Journal of Adolescent Health*, 31(6), 2002.
- ³⁹³ Vitaro, Frank. "Linkages between Early Childhood, School Success and High School Completion." *Encyclopedia on Early Childhood Development: School Success.* <http://www.child-encyclopedia.com/sites/default/files/dossiers-complets/en/school-success.pdf>
- ³⁹⁴ Centers for Disease Control and Prevention. *School Connectedness: Strategies for Increasing Protective Factors Among Youth*. Atlanta, GA: U.S. Department of Health and Human Services; 2009. <http://www.cdc.gov/healthyyouth/protective/pdf/connectedness.pdf>
- ³⁹⁵ Shonkoff, Jack P., and Deborah A. Phillips (eds). *From Neurons to Neighborhoods: The Science of Early Childhood Development*. National Research Council and Institute of Medicine. Washington, DC: National Academy Press, 2000.
- ³⁹⁶ See for example: Sylva, Kathy et al. "The Effective Provision of Pre-School Education (EPPE) Project, Technical Paper 12, The Final Report: Effective Pre-School Education." London: The Institute of Education, University of London, 2004; Kagitcibasi, Cigdem. "The Early Enrichment Project in Turkey." Paris: Unit for Co-operation with UNICEF and WFP, 1991.
- ³⁹⁷ United States Congress. *An original bill to reauthorize the Elementary and Secondary Education Act of 1965 to ensure that every child achieves*, 2015, Pub.L. 114–95.
- ³⁹⁸ Article 24 – UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3.
- ³⁹⁹ *Ibid*
- ⁴⁰⁰ Institute of Medicine (IOM) and National Research Council (NRC). 2015. *Transforming the workforce for children birth through age 8: A unifying foundation*. Washington, DC: The National Academies Press. https://www.ncbi.nlm.nih.gov/books/NBK310532/pdf/Bookshelf_NBK310532.pdf
- ⁴⁰¹ Geronimus, A. T., M. Hicken, D. Keene, and J. Bound. 2006. "Weathering" and age patterns of allostatic load scores among blacks and whites in the United States. *American Journal of Public Health* 96(5): 826-833.
- ⁴⁰² Institute of Medicine (IOM) and National Research Council (NRC). 2015. *Transforming the workforce for children birth through age 8: A unifying foundation*. Washington, DC: The National Academies Press. https://www.ncbi.nlm.nih.gov/books/NBK310532/pdf/Bookshelf_NBK310532.pdf
- ⁴⁰³ Trickett, P. K., and Putnam, F. W. (1993). Impact of child sexual abuse on females: Toward a developmental, psychobiological integration. *Psychological Science*, 4(2), 81–87
- ⁴⁰⁴ McEwen, B. S. 2012. Brain on stress: How the social environment gets under the skin. *Proceedings of the National Academy of Sciences of the United States of America* 109(Suppl.2): 17180-17185.
- ⁴⁰⁵ Institute of Medicine, and National Research Council (IOM and NRC). (2014). *New directions in child abuse and neglect research*. Washington, DC: The National Academies Press.
- ⁴⁰⁶ Burns, B. J., Phillips, S. D., Wagner, H. R., Barth, R. P., Kolko, D. J., Campbell, Y., and Landsverk, J. (2004). Mental health need and access to mental health services by youths involved with child welfare: A national survey. *Journal of the American Academy of Child & Adolescent Psychiatry*, 43(8), 960–970.
- ⁴⁰⁷ DePanfilis, D & Daining, C. (2007). Resilience of youth in transition from out-of-home care to adulthood. *Children and Youth Services Review*, 29, 1158–1178.
- ⁴⁰⁸ Ministry of Health (2006). *Joint Special Report: Health and Well-being of Children in Care in British Columbia Report 1 on Health Services Utilization and Child Mortality*. Office of Provincial Health Officer and Child and Youth Officer for British Columbia. See also:

- ⁴⁰⁹ Health Council of Canada. (2006). "Their Future is Now: Healthy Choices for Canada's Children and Youth." Toronto: Health Council of Canada.
- ⁴¹⁰ Middlebrooks, Jennifer. & Natalie Audage. "The Effects of Childhood Stress on Health Across the Lifespan." Atlanta (GA): Centers for Disease Control and Prevention, National Center for Injury Prevention and Control; 2008.
- ⁴¹¹ Proctor, C., & Linley, P. A. "Research, applications, and interventions for children and adolescents: A positive psychology perspective." Dordrecht, Netherlands: *Springer Science & Business Media*. 2013.
- ⁴¹² Diener, E., & M. Y. Chan, "Happy people live longer: Subjective well-being contributes to health and longevity." *Applied Psychology: Health and Well-Being*, 3(1), pp. 1-43. 2011.
- ⁴¹³ Government of Canada. "The Well-Being of Canada's Young Children." Human Resources and Skills Development Canada, Public Health Agency of Canada, Indian and Northern Affairs Canada. 2008. http://www.dpe-agie-ecdc-elcc.ca/eng/ecdc/well-being/sp_1027_04_12_eng.pdf
- ⁴¹⁴ Centres of Excellence for Children's Well-Being. "Responding to Children's Needs: Important Developmental Milestones in Young Children - Parenting Series," 2009. http://www.excellence-earlychildhood.ca/documents/Parenting_2009-11.pdf
- ⁴¹⁵ R.E. Tremblay. "Decade of Behavior Distinguished Lecture: Development of Physical Aggression During Infancy." *Infant Mental Health Journal*, 2004, pp. 399–407.
- ⁴¹⁶ Waddell, C. "Improving the Mental Health of Young Children." Children's Health Policy Centre, Simon Fraser University, 2007. <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.493.7142&rep=rep1&type=pdf>
- ⁴¹⁷ Warburton, D. E. R., Nicol, C. W., & Bredin, S. S. "Health Benefits of Physical Activity: the Evidence." *Canadian Medical Association Journal*, 174 (6), pp. 801-809, 2006.
- ⁴¹⁸ Eime, R. M., Young, J. A., Harvey, J. T., Charity, M. J., & Payne, W. R. "A systematic review of the psychological and social benefits of participation in sport for children and adolescents: Informing development of a conceptual model of health through sport." *International Journal of Behavioral Nutrition and Physical Activity*. 10(98), 2013.
- ⁴¹⁹ Singh, A., Uijtdewilligen, L., Twisk, J. W., Van Mechelen, W., & Chinapaw, M. J. M. "Physical activity and performance at school: A systematic review of the literature including a methodological quality assessment." *The Journal of the American Medical Association (JAMA) Pediatrics*, 166(1), pp. 49-55, 2012.
- ⁴²⁰ P Shonkoff, Jack & Thomas Boyce, W & McEwen, Bruce. (2009). Neuroscience, Molecular Biology, and the Childhood Roots of Health Disparities: Building a New Framework for Health Promotion and Disease Prevention. *JAMA : the journal of the American Medical Association*. 301. 2252-9. 10.1001/jama.2009.754.
- ⁴²¹ *Ibid*
- ⁴²² Article 39 – UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3. <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
- ⁴²³ Office of the Child and Youth Advocate, *The Best We Have to Offer*, Final Report on the Youth Suicide Prevention and Mental Health Services Review, September 2021. [NBCYA-The Best We Have to Offer \(E\)-WEB \(squarespace.com\)](https://www.nbcya.ca/en/2021/09/21/the-best-we-have-to-offer-e-web)
- ⁴²⁴ National Youth in Care Network, (2006). Current themes facing youth in state care-Backgrounder Series #1-#5. Ottawa, ON; National Youth in Care Network.
- ⁴²⁵ Lambe, Y., McLennan, R., (2009). Drugs in our system: An exploratory study on the chemical management of Canadian systems youth. Ottawa, ON: National Youth in Care Network.
- ⁴²⁶ Magee, Shane. "Province to move youth mental health centre to Moncton from Campbellton." CBC News. Dec. 12, 2019. [Province to move youth mental health centre to Moncton from Campbellton | CBC News](https://www.cbc.com/news/canada-province-12-12-2019)
- ⁴²⁷ Richard, B. and S. Smallwood, "Staying Connected: a Report of the Task Force on a Centre of Excellence for Children and Youth with Complex needs," March, 2011.
- ⁴²⁸ Office of the Ombud, "Failure to Protect," February 2019. https://www.ombudnb.ca/site/images/PDFs/Web_Report_En.pdf
- ⁴²⁹ Richard, B. and S. Smallwood, "Staying Connected: a Report of the Task Force on a Centre of Excellence for Children and Youth with Complex needs," March, 2011, p. 8.
- ⁴³⁰ Richard, B. and S. Smallwood, "Staying Connected: a Report of the Task Force on a Centre of Excellence for Children and Youth with Complex needs," March, 2011, p. 8.
- ⁴³¹ Article 9 – UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3.

- ⁴³² Partners for Youth Inc., “Centre of Excellence: Consultation Report,” April, 2016. [Centre of Excellence | Consultation Report – Partners For Youth](#)
- ⁴³³ Article 31 – UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3.
- ⁴³⁴ Casey Family Programs. (2009). When a teen says no to permanence. Retrieved February 5, 2017, from <http://centerforchildwelfare.fmhi.usf.edu/kb/permanency/WhenATeenSaysNo.pdf>
- ⁴³⁵ Vandivere, S., Malm, K., Zinn, A, Allen, T., & McKlindon, A, (2015). Experimental evaluation of a child-focused adoption recruitment program for children and youth in foster care. *Journal of Public Child Welfare*, 9(2), 174-194.
- ⁴³⁶ *Family Services Act*, SNB 1980, c F-2.2, s. 29(2).
- ⁴³⁷ Gaetz, S., Schwan, K., Redman, M., French, D., & Dej, E. (2018). The Roadmap for the Prevention of Youth Homelessness. A. Buchnea (Ed.). Toronto, ON: Canadian Observatory on Homelessness Press. ISBN: 978-1-77355-026-8. https://www.homelesshub.ca/sites/default/files/attachments/YPRfullreport_0.pdf
- ⁴³⁸ Homeless Hub. Raising the Roof: Youth Homelessness in Canada: The Road to Solutions, (2009) Toronto, Canada, at p. 19, <http://www.homelesshub.ca/sites/default/files/qbvwwqaz.pdf>
- ⁴³⁹ Gaetz, S., Schwan, K., Redman, M., French, D., & Dej, E. (2018). The Roadmap for the Prevention of Youth Homelessness. A. Buchnea (Ed.). Toronto, ON: Canadian Observatory on Homelessness Press. ISBN: 978-1-77355-026-8. https://www.homelesshub.ca/sites/default/files/attachments/YPRfullreport_0.pdf
- ⁴⁴⁰ Canadian Observatory on Homelessness. (2016). Canadian Definition of Youth Homelessness. Homeless Hub. https://homelesshub.ca/sites/default/files/Definition_of_Youth_Homelessness.pdf
- ⁴⁴¹ Koegel, P., Melamid, E. and Burnam, A. (1995). Childhood Risk Factors for Homelessness among Homeless Adults. *American Journal of Public Health*, 85(12), 1642-1670. See also: Rutman, D., Hubberstey, C., Feduniw, A. & Brown, E. (2007). When youth age out of care – Bulletin of time 2 findings. Victoria, B.C.: School of Social Work, University of Victoria.
- ⁴⁴² Barker, Brittany et al. “High Prevalence Of Exposure To The Child Welfare System Among Street-Involved Youth In A Canadian Setting: Implications For Policy And Practice.” (2014), *BMC Public Health*, 14(1). <https://cwrp.ca/crib/high-prevalence-exposure-child-welfare-system-among-street-involved-youth-canadian-setting>
- ⁴⁴³ U.S. Department of Housing and Urban Development. (2014). Housing for youth transitioning out of foster care. Washington, DC: Author. Retrieved from www.huduser.gov/portal/publications/pdf/youth_hsg_main_report.pdf
- ⁴⁴⁴ Courtney, M. E., and Piliavin, I. (1998). *Foster Youths Transitions to Adulthood: Outcomes 12 to 18 Months After Leaving Out-Of-Home Care*. Madison, WI: School of Social Work, University of Wisconsin-Madison.
- ⁴⁴⁵ Shah, M. F., Liu, Q., Eddy, J. M., Barkan, S., Marshall, D., Mancuso, D., Lucenko, B., and Huber, A. (2016). Predicting homelessness among emerging adults aging out of foster care. *American Journal of Community Psychology*, 60(1-2), 33–43.
- ⁴⁴⁶ Gaetz, S., “Street Justice: Homeless Youth and Access to Justice (2002), Homeless Hub, http://www.homelesshub.ca/sites/default/files/Street_Justice.JFCY.02.pdf.
- ⁴⁴⁷ Justice for Children and Youth. “Submission for the CRC General Comment on the Rights of Children in Street Situations,” April 12, 2016, <http://jfcy.org/wp-content/uploads/2013/10/Submission-for-the-CRC-on-Children-in-Street-Situations-Justice-for-Children-and-Youth.pdf>
- ⁴⁴⁸ Justice for Children and Youth. “Submission for the CRC General Comment on the Rights of Children in Street Situations,” April 12, 2016, <http://jfcy.org/wp-content/uploads/2013/10/Submission-for-the-CRC-on-Children-in-Street-Situations-Justice-for-Children-and-Youth.pdf>
- ⁴⁴⁹ Human Development Council. “Everyone Counts in New Brunswick: Highlights from the 2018 Point in Time Count,” 2018. https://0102.nccdn.net/1_5/000/000/000/a81/PiT-Report-2018-Final.pdf
- ⁴⁵⁰ Human Development Council. “Everyone Counts in New Brunswick: Highlights from the 2018 Point in Time Count,” 2018. https://0102.nccdn.net/1_5/000/000/000/a81/PiT-Report-2018-Final.pdf
- ⁴⁵¹ Justice for Children and Youth. “Submission for the CRC General Comment on the Rights of Children in Street Situations,” April 12, 2016, <http://jfcy.org/wp-content/uploads/2013/10/Submission-for-the-CRC-on-Children-in-Street-Situations-Justice-for-Children-and-Youth.pdf>
- ⁴⁵² Justice for Children and Youth. “Submission for the CRC General Comment on the Rights of Children in Street Situations,” April 12, 2016, <http://jfcy.org/wp-content/uploads/2013/10/Submission-for-the-CRC-on-Children-in-Street-Situations-Justice-for-Children-and-Youth.pdf>
- ⁴⁵³ Human Development Council. “Everyone Counts in New Brunswick: Highlights from the 2018 Point in Time Count,” 2018. https://0102.nccdn.net/1_5/000/000/000/a81/PiT-Report-2018-Final.pdf

- ⁴⁵⁴ Saint John Human Development Council. ‘Saint John’s Plan to End Youth Homelessness: Strategic Framework.’ http://0104.nccdn.net/1_5/267/362/251/Strategic-Framework-Final.pdf
- ⁴⁵⁵ Gaetz, S., Schwan, K., Redman, M., French, D., & Dej, E. (2018). *The Roadmap for the Prevention of Youth Homelessness*. A. Buchnea (Ed.). Toronto, ON: Canadian Observatory on Homelessness Press. https://www.homelesshub.ca/sites/default/files/attachments/YPRfullreport_0.pdf
- ⁴⁵⁶ United Nations Committee on the Rights of the Child. *Concluding Observations to Canada, 1995*. CRC/C/15.
- ⁴⁵⁷ Child and Youth Advocate. *The New Brunswick Child Rights Indicators Framework*. Child Rights and Wellbeing Framework 2018, Table 3, Indicator 22. <https://www.cyanb.ca/images/SOC-2018-Report.pdf>
- ⁴⁵⁸ UN Committee on the Rights of the Child (CRC), *UN Committee on the Rights of the Child: General comment No. 21 (2017) on children in street situations*, 21 June 2017, CRC/C/GC/21. https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f21&Lang=en
- ⁴⁵⁹ UN Committee on the Rights of the Child (CRC), *UN Committee on the Rights of the Child: General comment No. 21 (2017) on children in street situations*, 21 June 2017, CRC/C/GC/21. https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f21&Lang=en
- ⁴⁶⁰ UN Committee on the Rights of the Child (CRC), *UN Committee on the Rights of the Child: General comment No. 21 (2017) on children in street situations*, 21 June 2017, CRC/C/GC/21. https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f21&Lang=en
- ⁴⁶¹ Tyler, K. A., Schmitz, R. M., and Ray, C. M. (2017). Role of social environmental protective factors on anxiety and depressive symptoms among Midwestern homeless youth. *Journal of Research on Adolescence*, 28(1), 199–210.
- ⁴⁶² Article 26 – UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3. <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
- ⁴⁶³ New Brunswick Adoption Foundation. *NB Adoption Process Survey Results 2016*. [NBAdoptionSurveyResults2016English_FINAL.pdf \(mailchimp.com\)](https://www.nbadoption.ca/Portals/0/NBADoptionSurveyResults2016English_FINAL.pdf)
- ⁴⁶⁴ North American Council on Adoptable Children. “Positive Outcomes: What Workers can Learn from Successful Teen Adoptions.” Contribute by: Cynthia Flynn, Ph.D., 2005. [Positive Outcomes: What Workers Can Learn from Successful Teen Adoptions \(nacac.org\)](https://www.nacac.org/Portals/0/Positive%20Outcomes%20What%20Workers%20Can%20Learn%20from%20Successful%20Teen%20Adoptions.pdf)
- ⁴⁶⁵ New Brunswick Adoption Foundation. [Welcome / Bienvenue \(nbadoption.ca\)](https://www.nbadoption.ca/)
- ⁴⁶⁶ See, for information: Children’s Aid Foundation of Canada. “Wendy’s Wonderful Kids Program.” <https://www.cafdn.org/our-impact/programs-we-fund/wendys-wonderful-kids/#1501276803348-dae329d0-4eaa>
- ⁴⁶⁷ New Brunswick Youth in Care Network. “Repaving the Long Road Home,” 2020. [Repaving the Long Road Home – Partners For Youth](https://www.nbycn.org/Portals/0/Repaving%20the%20Long%20Road%20Home%20-%20Partners%20For%20Youth.pdf)
- ⁴⁶⁸ New Brunswick Adoption Foundation. *NB Adoption Process Survey Results 2016*. [NBAdoptionSurveyResults2016English_FINAL.pdf \(mailchimp.com\)](https://www.nbadoption.ca/Portals/0/NBADoptionSurveyResults2016English_FINAL.pdf)
- ⁴⁶⁹ New Brunswick Adoption Foundation. *NB Adoption Process Survey Results 2016*. [NBAdoptionSurveyResults2016English_FINAL.pdf \(mailchimp.com\)](https://www.nbadoption.ca/Portals/0/NBADoptionSurveyResults2016English_FINAL.pdf)
- ⁴⁷⁰ Province of New Brunswick, Department of Social Development Annual Report 2020-2021, page 19. [Annual Report 2020-2021 Social Development \(gnb.ca\)](https://www.gnb.ca/Portals/0/Reports/2020-2021/Social%20Development/Annual%20Report%2020-2021.pdf)
- ⁴⁷¹ Lenroot, R. K., Gogtay, N., Greenstein, D. K., Wells, E. M., Wallace, G. L., Clasen, L. S., ... & Thompson, P. M. (2007). Sexual dimorphism of brain developmental trajectories during childhood and adolescence. *Neuroimage*, 36(4), 1065–1073.
- ⁴⁷² UN General Assembly, *Guidelines for the Alternative Care of Children : resolution / adopted by the General Assembly*, 24 February 2010, A/RES/64/142, available at: <https://www.refworld.org/docid/4c3acd162.html>
- ⁴⁷³ Avery, R. J. (2009). An examination of theory and promising practice for achieving permanency for teens before they age out of foster care. *Children and Youth Services Review*, 32(3), 399–408.
- ⁴⁷⁴ The Jim Casey Youth Opportunities Initiative. (2011). *The adolescent brain: New research and its implications for young people transitioning from foster care*. www.aecf.org/resources/the-adolescent-brain-foster-care
- ⁴⁷⁵ Labouvie-Vief, G. (2006). *Emerging structures of adult thought*. Washington, DC: American Psychological Association.
- ⁴⁷⁶ Steinberg, L., Graham, S., O’Brien, L., Woolard, J., Cauffman, E., and Banich, M. (2009). Age differences in future orientation and delay discounting. *Child Development*, 80(1), 28–44.

-
- ⁴⁷⁷ McElhaney, K. B., Allen, J. P., Stephenson, J. C., and Hare, A. L. (2009). Attachment and autonomy during adolescence. In R. M. Lerner and L. D. Steinberg (Eds.), *Handbook of Adolescent Psychology, Volume 1: Individual Bases of Adolescent Development* (3rd ed.). Hoboken, NJ: Wiley.
- ⁴⁷⁸ National Governors Association Centre for Best Practices, (2007). Issue Brief: State Policies to Help Youth Transition Out of Foster Care.
- ⁴⁷⁹ Geenen, S. & Powers, L.E., (2007). Tomorrow is another problem: The experiences of youth in foster care during their transition into adulthood. *Children and Youth Services Review*, 29(8), 1085-1101.
- ⁴⁸⁰ Scannapiecon, M., Schagrin, J., & Scannapiecon, T., (1995). Independent Living Programs: Do They Make a Difference? *Child and Adolescent Social Work Journal*, 12(5), 381-389.
- ⁴⁸¹ Altschuler, D., Strangler, G., Berkley, K., & Burton, L. (2009). Supporting Youth in Transition to Adulthood: Lessons Learned from Child Welfare and Juvenile Justice. The Center for Juvenile Justice Reform and the Jim Casey Youth Opportunities Initiative.
- ⁴⁸² New South Wales (NSW) Department of Community Services, (2007). Out of Home Care: Wrap Around Services for Children and Young People. Out of Home Care Policy Directorate.
- ⁴⁸³ Janssen, S. M., Chessa, A. G., & Murre, J.M. (2005, August). The reminiscence bump in autobiographical memory: Effects of age, gender, education, and culture. *Memory*, (6), 658–668.
- ⁴⁸⁴ Keller, T. E., Cusick, G. R., and Courtney, M. E. (2007). Approaching the transition to adulthood: Distinctive profiles of adolescents aging out of the child welfare system. *Social Service Review*, 81(3), 453–484.
- ⁴⁸⁵ Steinberg, L. (2008). A social neuroscience perspective on adolescent risk-taking. *Developmental Review*, 28(1), 78–106.
- ⁴⁸⁶ UN General Assembly, *Guidelines for the Alternative Care of Children : resolution / adopted by the General Assembly*, 24 February 2010, A/RES/64/142, available at: <https://www.refworld.org/docid/4c3acd162.html>
- ⁴⁸⁷ Pergamit, M. R., & Johnson, H. (2009). Extending foster care to age 21: Implications and estimates from youth aging out of foster care in Los Angeles. Washington, DC: Urban Institute.
- ⁴⁸⁸ Peters, C., Sherraden, M., & Kuchinski, A. M. (2012). Enduring assets: Findings from a study on the financial lives of young people transitioning from foster care. St. Louis, MO: Jim Casey Youth Opportunities Initiative. <https://www.aecf.org/resources/enduring-assets/>
- ⁴⁸⁹ See, for example: California Law Welfare and Institutions Code §16001.9—Rights of Children in foster care (2013) (a) It is the policy of the state all children in foster care shall have the following rights: (11) To maintain an emancipation bank account and manage personal income, consistent with the child’s age and developmental level, unless prohibited by the case plan. [Codes Display Text \(ca.gov\)](#)
- ⁴⁹⁰ See, for example: Minnesota Statutes Public Welfare and Related Activities (Ch. 245-267) § 260C.212. Children in placement, Subdivision 1. Out-of-home placement; plan (c)(12)(iv). [Minnesota Statutes Public Welfare and Related Activities \(Ch. 245-267\) § 260C.212 | FindLaw](#)
- ⁴⁹¹ UN General Assembly, *Guidelines for the Alternative Care of Children : resolution / adopted by the General Assembly*, 24 February 2010, A/RES/64/142, available at: <https://www.refworld.org/docid/4c3acd162.html>
- ⁴⁹² *Family Services Act*, SNB 1980, c F-2.2, s. 49(5)
- ⁴⁹³ General Administration Regulation, NB Reg 81-132, <<https://canlii.ca/t/544qd>>
- ⁴⁹⁴ Government of New Brunswick, Department of Social Development. Child in Care Program Practice Standards. July 11th, 2018.
- ⁴⁹⁵ Department of Social Development, Government of New Brunswick. “Response To A Long Road Home.” May 2014. <https://www2.gnb.ca/content/dam/gnb/Departments/sd-ds/pdf/GNBResponseToALongRoadHome.pdf>
- ⁴⁹⁶ Wadhwani, Ashley. “B.C.’s tuition waiver program for former youth in care continues to grow.” Victoria News. October 26, 2019. <https://www.vicnews.com/news/b-c-s-tuition-waiver-program-for-former-youth-in-care-continues-to-grow/>
- ⁴⁹⁷ Government of New Brunswick. Website of the Department of Post-Secondary Education, Training and Labour. [Renewed Tuition Bursary \(gnb.ca\)](#)
- ⁴⁹⁸ RSNB 2011, c 171, Human Rights Act
- ⁴⁹⁹ A.B. v. Havcare Investments Inc., 2014 HRTO 1087 (CanLII), <<http://canlii.ca/t/g86mw>>
- ⁵⁰⁰ Centres for Disease Control and Prevention. *Violence Prevention: Adverse Childhood Experiences (ACEs)*. [Adverse Childhood Experiences \(ACEs\) \(cdc.gov\)](#)
- ⁵⁰¹ Brown, D. W., Anda, R. F., Tiemeier, H., Felitti, V. J., Edwards, V. J., Croft, J. B., & Giles, W. H. (2009). Adverse Childhood Experiences and the Risk of Premature Mortality. *American Journal of Preventive Medicine*, 37(5), 389-396. doi:10.1016/j.amepre.2009.06.021

- ⁵⁰² Kerker et al. (2015). Adverse Childhood Experiences and Mental Health, Chronic Medical Conditions, and Development in Young Children. *Academic Pediatrics*, 15(5), 510-517. doi:10.1016/j.acap.2015.05.005
- ⁵⁰³ Courtney, M. E., Okpych, N. J., Park, K., Harty, J., Feng, H., Torres-Garcia, A., & Sayed, S. (2018). *Findings from the California Youth Transitions to Adulthood Study (CalYOUTH): Conditions of youth at age 21*. Chicago, IL: Chapin Hall at the University of Chicago.
- ⁵⁰⁴ Courtney, M. E., Okpych, N. J., & Park, S. (2018). *Report from CalYOUTH: Findings on the relationship between extended foster care and youth's outcomes at age 21*. Chicago, IL: Chapin Hall at the University of Chicago.
- ⁵⁰⁵ [Rosenberg](#), Rachel & Samuel Abbott. Supporting Older Youth Beyond Age 18: Examining Data and Trends in Extended Foster Care. *Child Trends*. Jun 03, 2019. <https://www.childtrends.org/publications/supporting-older-youth-beyond-age-18-examining-data-and-trends-in-extended-foster-care>
- ⁵⁰⁶ Annie E. Casey Foundation (2011). The Adolescent Brain: New Research and Its Implications for Young People Transitioning from Foster Care, Executive Summary. Retrieved from: https://jbcc.harvard.edu/sites/default/files/jcyoi_adolescent_brain_development_executive_summary_final_090611.pdf
- ⁵⁰⁷ Arnett, J. J. (2007). Emerging adulthood: What is it, and what is it good for? *Child Development Perspectives*, 1(2), 68–73.
- ⁵⁰⁸ Berzin, S. C., Rhodes, A. M., & Curtis, M. A. (2011). Housing experiences of former foster youth: How do they fare in comparison to other youth? *Children and Youth Services Review*, 33(11), 2119–2126. <http://doi.org/10.1016/j.childyouth.2011.06.018>. See also: Bender, K., Yang, J., Ferguson, K., & Thompson, S. (2015). Experiences and needs of homeless youth with a history of foster care. *Children and Youth Services Review*, 55, 222–231. <http://doi.org/10.1016/j.childyouth.2015.06.007>.
- ⁵⁰⁹ Braciszewski, J. M., & Stout, R. L. (2012). Substance use among current and former foster youth: A systematic review. *Children and Youth Services Review*, 34(12), 2337–2344. <http://doi.org/10.1016/j.childyouth.2012.08.011>
- ⁵¹⁰ Courtney, M. E., Dworsky, A., Lee, J., & Raap, M. (2010). *Midwest Evaluation of the Adult Functioning of Former Foster Youth: Outcomes at age 23 and 24*. Chicago: Chapin Hall at The University of Chicago.
- ⁵¹¹ Courtney, M. E., Dworsky, A., Lee, J., & Raap, M. (2010). *Midwest Evaluation of the Adult Functioning of Former Foster Youth: Outcomes at age 23 and 24*. Chicago: Chapin Hall at The University of Chicago.
- ⁵¹² Harrison, M.B., et al. (2007). “Youth Transition to Adult Mental Health Services. Evidence-based practices in the integration of services for individuals with specialized needs.” Ontario Mental Health Foundation and Ministry of Health and Long Term Care.
- ⁵¹³ Juvenile Law Center (2018). Extended foster care. Retrieved from: <https://jlc.org/issues/extended-foster-care>
- ⁵¹⁴ Child, Youth and Senior Advocate Act, SNB 2007, c C-2.7, <<https://canlii.ca/t/53815>>
- ⁵¹⁵ Family Services Act, SNB 1980, c F-2.2., s. 30(1) <<https://canlii.ca/t/54r2z>>
- ⁵¹⁶ Child Abuse Prevention and Treatment Act (CAPTA) Reauthorization Act of 2010 (P.L. 111-320), 42 U.S.C. § 5101, Note (§ 3).
- ⁵¹⁷ Savoury, George. “Review of the Effectiveness of New Brunswick’s Child Protection System.” November, 2018. <https://www2.snb.ca/content/dam/gnb/Departments/sd-ds/pdf/Protection/Child/ReviewOfTheEffectivenessOfNewBrunswicksChildProtectionSystem.pdf>
- ⁵¹⁸ Munro, Eileen, “The Munro Review of Child Protection: Final Report, a Child-Centered System.” Secretary of State for Education, U.K., May 2011. https://lx.iriss.org.uk/sites/default/files/resources/cm_8062.pdf
- ⁵¹⁹ Munro, Eileen, “The Munro Review of Child Protection: Final Report, a Child-Centered System.” Secretary of State for Education, U.K., May 2011. Page 48. https://lx.iriss.org.uk/sites/default/files/resources/cm_8062.pdf
- ⁵²⁰ Munro, Eileen, “The Munro Review of Child Protection: Final Report, a Child-Centered System.” Secretary of State for Education, U.K., May 2011. Page 48. https://lx.iriss.org.uk/sites/default/files/resources/cm_8062.pdf
- ⁵²¹ Child Welfare 360. (2012). *Secondary Trauma and the Child Welfare Workforce* St. Paul, MN: Center for Advanced Studies in Child Welfare, University of Minnesota.
- ⁵²² Lizano, E. L., & Mor Barak, M. E. (2012). Workplace demands and resources as antecedents of job burnout among public child welfare workers: A longitudinal study. *Children and Youth Services Review*, 34(9), 1769-1776.
- Lloyd, C., King, R., & Chenoweth, L. (2002). Social work, stress and burnout: A review. *Journal of Mental Health*, 11(3), 255-265.
- Lizano, E. L., & Mor Barak, M. (2015). Job burnout and affective wellbeing: A longitudinal study of burnout and job satisfaction among public child welfare workers. *Children and Youth Services Review*, 55, 18-28. doi:10.1016/j.childyouth.2015.05.005
- ⁵²³ Lizano, E. L., & Mor Barak, M. E. (2012). Workplace demands and resources as antecedents of job burnout among public child welfare workers: A longitudinal study. *Children and Youth Services Review*, 34(9), 1769-1776.

Boyas, J., Wind, L. H., & Kang, S.-Y. (2012). Travis, D. J., Lizano, E. L., & Mor Barak, M. E. (2015). I'm so stressed!: A longitudinal model of stress, burnout and engagement among social workers in child welfare settings. *British Journal of Social Work*, <https://academic.oup.com/bjsw/article-abstract/46/4/1076/2472164?redirectedFrom=fulltext> Exploring the relationship between employment-based social capital, job stress, burnout, and intent to leave among child protection workers: An age-based path analysis model. *Children and Youth Services Review*, 34(1), 50-62.

<https://www.sciencedirect.com/science/article/abs/pii/S0190740911003355>

⁵²⁴ National Association of Social Workers, Texas Chapter. "Employment and the Child Welfare System: An NASW/Texas White Paper," 2010.

https://cdn.ymaws.com/www.naswtx.org/resource/resmgr/imported/Child_Welfare_and_Social_Workers_White_Paper.pdf

⁵²⁵ UN Committee on the Rights of the Child (CRC), *General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1)*, 29 May 2013, CRC

/C/GC/14, available at: <https://www.refworld.org/docid/51a84b5e4.html>

⁵²⁶ *Family Services Act, SNB 1980, c F-2.2*, s. 31(1)(h) and (i).

⁵²⁷ Savoury, George. Review of the Effectiveness of New Brunswick's Child Protection System, November 29th, 2018. [https://www2.gnb.ca/content/dam/gnb/Departments/sd-](https://www2.gnb.ca/content/dam/gnb/Departments/sd-ds/pdf/Protection/Child/ReviewOfTheEffectivenessOfNewBrunswicksChildProtectionSystem.pdf)

[ds/pdf/Protection/Child/ReviewOfTheEffectivenessOfNewBrunswicksChildProtectionSystem.pdf](https://www2.gnb.ca/content/dam/gnb/Departments/sd-ds/pdf/Protection/Child/ReviewOfTheEffectivenessOfNewBrunswicksChildProtectionSystem.pdf)

⁵²⁸ Konkel, Lindsey, "The Brain before Birth: Using fMRI to Explore the Secrets of Fetal Neurodevelopment."

Environmental Health Perspectives, Vol. 126, No. 11. [The Brain before Birth: Using fMRI to Explore the Secrets of Fetal Neurodevelopment | Environmental Health Perspectives | Vol. 126, No. 11 \(nih.gov\)](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3048448/)

⁵²⁹ Oberlander, T. F., J. Weinberg, M. Papsdorf, R. Grunau, S. Misri, and A. M. Devlin. 2008. Prenatal exposure to maternal depression, neonatal methylation of human glucocorticoid receptor gene (NR3C1) and infant cortisol stress responses. *Epigenetics* 3(2):97-106.

⁵³⁰ Savoury, George. Review of the Effectiveness of New Brunswick's Child Protection System, November 29th, 2018. [https://www2.gnb.ca/content/dam/gnb/Departments/sd-](https://www2.gnb.ca/content/dam/gnb/Departments/sd-ds/pdf/Protection/Child/ReviewOfTheEffectivenessOfNewBrunswicksChildProtectionSystem.pdf)

[ds/pdf/Protection/Child/ReviewOfTheEffectivenessOfNewBrunswicksChildProtectionSystem.pdf](https://www2.gnb.ca/content/dam/gnb/Departments/sd-ds/pdf/Protection/Child/ReviewOfTheEffectivenessOfNewBrunswicksChildProtectionSystem.pdf)

⁵³¹ New Brunswick Child and Youth Advocate. "Behind Closed Doors: A Story of Neglect." 2019.

<https://static1.squarespace.com/static/60340d12be1db058065cdc10/t/605e36c432aa3378c3e8b039/1616787141052/Behind-Closed-Doors.pdf>

⁵³² Institute of Medicine (IOM) and National Research Council (NRC). 2015. *Transforming the workforce for children birth through age 8: A unifying foundation*. Washington, DC: The National Academies Press.

https://www.ncbi.nlm.nih.gov/books/NBK310532/pdf/Bookshelf_NBK310532.pdf

⁵³³ Kishiyama, M. M., W. T. Boyce, A. M. Jimenez, L. M. Perry, and R. T. Knight. 2009. Socioeconomic disparities affect prefrontal function in children. *Journal of Cognitive Neuroscience* 21(6): 1106-1115.

⁵³⁴ Evans, G. W., and P. Kim. 2013. Childhood poverty, chronic stress, self-regulation, and coping. *Child Development Perspectives* 7(1):43-48.

⁵³⁵ *Family Services Act, SNB 1980, c F-2.2*, s. 30(1) and 30(3) <<https://canlii.ca/t/54r2z>>