



New Brunswick's child welfare system¹

Pamela Gough

An overview of child welfare in New Brunswick

The main responsibility for the well-being of children in Canada rests with parents. It is recognized, however, that there are times when others must intervene. Child maltreatment is one such circumstance. The *Constitution Act*² grants provinces and territories the authority to operate child welfare systems to intervene, when necessary, and to set legislation to govern those systems. The purpose of provincial and territorial child welfare systems is to protect the safety and well-being of children.

In New Brunswick, the Department of Family and Community Services oversees the quality and delivery of child protection services, which are provided by 265 provincial social workers operating from 16 sites located in eight regions throughout the province.

The Department of Family and Community Services delivers child protection services within the context of a broad range of integrated social programs for families and children. Teams within the Department work together collaboratively to plan, monitor and oversee the delivery of child welfare and youth related programs and

services. They also interpret legislation and develop programs, policies, and procedures.

Regional management teams, each headed by a regional director and program delivery manager, provide a range of specialized services to ensure the safety and well-being of children and youth. In addition to child protection, these regional teams oversee provisions for children in care as well as the administration of foster homes and group homes. They also oversee adoption services, birthparent services, programming for youth, post-guardianship services and services to help parents of severely disabled children provide the extraordinary care and support needed to meet the special developmental needs of their children.

In addition, the Federal Department of Indian and Northern Affairs provides funding for 11 First Nations child and family service agencies, delegated by the province to provide child welfare services to children and families on reserves in New Brunswick.

In the 2005/06 fiscal year, there were 6,740 child protection referrals to the Department of Family and Community Services in New Brunswick, with an average of 1,686 active cases each month. The number of these referrals has slightly increased since 2001,

Figure 1: Department of Family and Community Services child welfare statistics in New Brunswick 2001- 2006

| Year | Number of child protection referrals | Children in temporary care (annual monthly average) | Children in permanent care (annual monthly average) | Post guardianship Services (PGS) (annual monthly average) |
|---------|--------------------------------------|---|---|---|
| 2001-02 | 6,396 | 477 | 906 (includes PGS) | |
| 2002-03 | 6,458 | 485 | 834 (includes PGS) | |
| 2003-04 | 6,522 | 520 | 853 | 68 |
| 2004-05 | 6,468 | 601 | 851 | 85 |
| 2005-06 | 6,740 | 523 | 852 | 103 |

Source: New Brunswick Ministry of Family and Community Services, December 2006. Note: These statistics include First Nations Children receiving services off reserve through the Department of Family and Community Services.

as shown in Figure 1. In 2005/06, a monthly average of 1,375 children were in provincial care, of whom 523 were in temporary care and 852 were in permanent care. In 2005/06, the numbers of children in temporary care decreased from the previous year while the number in permanent care remained stable.³

How does the New Brunswick child welfare system work for Aboriginal children?

Aboriginal children have a unique position under Canadian legislation. The *Constitution Act*, the *Indian Act* and the *Canadian Charter of Rights and Freedoms* recognize the special legal status and rights of Canada's Aboriginal peoples.

In New Brunswick, there are 11 delegated Child and Family Service Agencies on reserves, providing services to 15 First Nation communities. Aboriginal families living off reserves receive services from the regional office of the Department of Family and Community Services. The Department has protocols for identification of band affiliation and provisions for co-management of cases with First Nations Child and Family Service Agencies if desired by Aboriginal families. If appropriate, cases may be transferred entirely to a First Nations Child and Family Service Agency.

What is the definition of child maltreatment?

In New Brunswick, child maltreatment includes sexual abuse, physical abuse, physical neglect, and emotional maltreatment. Children and youth up to the age of 16, or disabled children and youth up to the age of 19, are in need of intervention if there are reasonable and probable grounds to believe that their security or development is endangered because of any of the following:

- the child is without adequate care, supervision or control,
- the child is living in unfit or improper circumstances,
- the child is in the care of a person who is unable or unwilling to provide adequate care, supervision or control of the child,
- the child is in the care of a person whose conduct endangers the life, health or emotional well-being of the child,
- the child is physically or sexually abused, physically or emotionally neglected, sexually exploited or in danger of such treatment,
- the child is living in a situation where there is domestic violence,
- the child is in the care of a person who neglects

or refuses to provide proper medical, surgical or other care necessary for the health or well-being of the child, or refuses to permit such care or treatment to be supplied to the child,

- the child is beyond the control of the person caring for him or her,
- the child's behaviour, condition, environment, or association, is likely to cause injury to the child or others,
- the child is in the care of a person who does not have a right to custody of the child, without the consent of a person having custody,
- the child is in the care of a person who neglects or refuses to ensure that the child attends school, or,
- the child has committed an offence or, if the child is under the age of twelve years, has committed an act or omission that would constitute an offence for which the child could be convicted if the child were 12 years of age or older.

What does child welfare legislation in New Brunswick cover?

The *Family Services Act*⁴ is New Brunswick's primary piece of legislation promoting the protection, best interests, and well-being of children. In addition, it governs services for children in care and in residential living situations and adoptions within the province. The *Intercountry Adoption Act*⁵ governs adoptions between New Brunswick and other countries which are members of the Hague Convention.

The main themes in the *Family Services Act* are:

- the family exists as the basic unit of society and its well-being is inseparable from the common well-being,
- children have rights both as individuals and as part of a family,
- children have the same basic rights and fundamental freedoms as adults, including a right to safeguards and assistance in the preservation of their rights, and they are entitled to participate in the processes that lead to decisions that affect them,
- children are entitled to be informed about their rights and freedoms,
- children and their families have a right to the least invasion of privacy and interference with freedom as is compatible with their own interests and those of their families and of society,
- parents have responsibility for the care and supervision of their children, and children should only be removed from parental supervision in accordance with the provisions of the *Family Services Act*,

- when it is necessary to remove children from the care and supervision of their parents, they should be provided for as if they were under the care and protection of wise and conscientious parents,
- social services are essential to prevent or alleviate the social and related economic problems of individuals and families, and
- the rights of children, families and individuals must be guaranteed by the rule of law and provincial intervention into the affairs of individuals and families must be governed by the rule of law.

When and how should child maltreatment be reported?

In New Brunswick, anyone who suspects child maltreatment is obliged by law to report the situation without delay. This includes teachers, doctors, and other professionals who may acquire information in the course of carrying out their employment. The only exception to this “duty to report” exists in the relationship between a solicitor and his or her clients.

A professional person who has information causing him or her to suspect child maltreatment, and who does not report this immediately, commits an offence. If there are reasonable grounds to suspect that a professional person has not reported suspected child maltreatment, the Minister of Family and Community Services may require the appropriate professional regulatory body to investigate the matter. Charges can be laid within six years after the time when the duty to report arose.

Child protection services in New Brunswick operate 24 hours a day, seven days a week. Reports can be made to regional offices of the Department of Family and Community Services. If the regional office is closed, the call is directed to the After Hours Emergency Social Services (AHES), a centralized provincial service managed by professional social workers. This service operates during the night, on weekends and on holidays. Each region also has on-call social workers who can respond directly to emergency child protection/child care situations that are referred to their attention by AHES.

What happens after child maltreatment is reported?

When the Department of Family and Community Services receives a report of suspected child maltreatment, details of the referral are reviewed to determine whether the child is being, or is at risk of being, maltreated. If so, the report is referred to a

provincial social worker for investigation. If it is determined that the child is in need of protection, services are provided according to the best interests of the child. In situations where the child is in imminent danger, immediate action is taken to ensure the safety of the child. Social workers focus on keeping families together wherever possible.

If an out-of-home placement for the child is necessary, the Department may enter into an agreement with the parents, or may request the Court to place the child into the care and custody of the Minister of Family and Community Services so that the child lives in a safe and caring environment. Alternate family living environments may be a foster home, group home, or a more specialized setting.

What recent initiatives has the Department of Family and Community Services undertaken?

In 2002, the Department renewed its focus on the need for permanent families for older, special needs children, working from the understanding that children need permanency, continuity, security and stability in their relationships with others for healthy development. This focus resulted in an increase of over 400% in adoptive placements by 2006, compared to the five years prior to 2002.

In December 2006, the Department embarked on a new initiative with a focus on:

- increasing the provision of family support services aimed at families that are low-risk and medium-risk for child abuse, with the aim of preventing them from becoming high-risk families;
- developing a mediation model as the primary form of dispute resolution in child protection cases, enabling families to play a key part in resolving crisis situations and reducing the number of cases going forward to the court system; and
- developing and implementing a prevention-based multiple-response model, in which social workers determine the level of severity of each report of child maltreatment, and develop a response that reflects appropriate action based on the level of risk to the child, the family’s willingness to accept help, and the connections that can be formed with community supports and services.

This project will restructure the delivery of child protection and is planned to be implemented in two phases. The mediation model will be developed first, followed by the multiple response model.

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- 1 This information sheet has been reviewed by child welfare experts. Thanks are extended to Joan Mix, Director of Child Welfare and Youth Services, New Brunswick Department of Family and Community Services, and Gary Love, Child Protection Consultant, New Brunswick Department of Family and Community Services.
 - 2 *Constitution Act*, 1982, being Schedule B of the *Canada Act*, 1982 (U.K.), 1982.
 - 3 Personal communication with Gary Love, New Brunswick Department of Family and Community Services, December 12, 2006.
 - 4 *Family Services Act*, S.N.B. 1983, c.16. s.1. Retrieved December 10, 2006 from: <http://www.canlii.org/nb/laws/sta/f-2.2/20061122/whole.html>
 - 5 *Intercountry Adoption Act*, S.N.B. 1996, c.1-12.01. Retrieved December 10, 2006 from: <http://www.canlii.org/nb/laws/sta/i-12.01/20061122/whole.html>

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About the author: Pamela Gough is a Senior Communications Officer, CECW.

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