



# The Yukon's child welfare system<sup>1</sup>

*Pamela Gough*

## An overview of child welfare in the Yukon

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*<sup>2</sup> 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.

## How do territorial child welfare systems differ from provincial ones?

Although they are large in size, Canada's three northern territories are more sparsely

populated than the provinces and have a much higher proportion of Aboriginal people in their populations. The Yukon is the westernmost of Canada's three territories (see Figure 1). Yukon's land mass of 478,970 square kilometres<sup>3</sup> is populated by 32,714 people, for 0.7 person per square kilometre.<sup>4</sup> Approximately 25% of the Yukon's population are of Aboriginal origin.<sup>5</sup>

Because of the relatively small populations, social workers in the territories also tend to play a much more general role than their southern counterparts. In the Yukon, child protection workers and supervisors in the communities outside of Whitehorse are also responsible for providing broad-based social services, including social assistance, services to seniors and persons with disabilities, youth justice services, etc. In Whitehorse, social workers carry specialized child welfare caseloads.

**Figure 1 : Map of Canada showing Yukon Territory**



## What do we mean by child maltreatment?

“Child maltreatment” refers to the violence, harm, mistreatment or neglect a child or youth may have experienced, be experiencing, or could be at substantial risk of experiencing while in the care of someone whom the child trusts or on whom the child depends, such as a parent, caregiver, teacher or coach. The Yukon’s *Children’s Act*<sup>6</sup> and Canada’s *Criminal Code* define when it is necessary to intervene in order to protect the well-being of children within the territory. This includes situations when a child is abandoned, is staying away from home in unsafe circumstances, or is in the care of a parent or other person who is unable or unwilling to provide proper or competent care, supervision or control. Intervention is also required when the parent or person taking care of the child fails to provide the child with reasonable protection from physical or psychological harm, and:

- neglects or refuses to provide or obtain the medical care necessary for the child’s health, well-being or normal development;
- involves the child in sexual activity,
- beats, cuts, burns, or in any other way physically abuses the child,
- fails to provide the necessities of life;
- harasses the child with threats of any of the above; or
- fails to take reasonable precautions to prevent others from doing any of the above.

## Child welfare legislation in the Yukon

The *Children’s Act* is the primary piece of legislation that provides for the protection and well-being of children in the Yukon. The *Children’s Act* has provisions to allow the delivery of both prevention and intervention services to children, youth and their families.

The main themes of the *Children’s Act* in relation to child protection are:

### Revisions to the *Children’s Act*

The *Children’s Act* is currently under review and is going through a process of public consultation. A newly revised version of the Act will result from this process.

- children have the right to be protected from abuse, harm and neglect;
- the family unit should be promoted and reasonable steps taken to decrease the need to bring children into care, or keep them in care;
- if a child needs to be brought into care, the child should be placed with a family of the same cultural background and lifestyle, preferably within the home community, if this is possible within a reasonable period of time;
- decisions concerning temporary or permanent care of children should be made in accordance with their best interests, and should consider:
  - the child’s bond with his or her parent or caregiver,
  - the length of time the child has been in care and the effect on the child of any delay in decisions made on his or her behalf;
  - the impact of disruptions on the child’s need for continuity,
  - the child’s right to be a wanted and needed member of a stable family group;
  - the child’s stage of development;
  - the risks and merits of the child returning to or remaining in the care of his or her parents or other person entitled to care for him or her;
  - the views and preferences of the child;
  - the mental, physical and emotional needs of the child and the appropriate care or treatment to meet those needs; and
  - the cultural heritage of the child.

In the Yukon, child protection covers children and youth up to the age of 18. The *Children’s Act* also provides a framework of support for youth in care to provide services up to age 19.

All individuals who have reasonable grounds to believe that a child is in need of protection have a responsibility to report this to a child protection worker or a peace officer or another authorized person. By law, only child care workers, teachers and principals must report suspected child abuse. Doctors and health care workers are also bound by professional ethics to report, although this is not mandatory in the Yukon.

Individuals making a report are protected from civil action as long as the report was not made maliciously or without reasonable cause. The only situations in which exceptions are made are those involving lawyer/client privilege or Crown privilege. Failure to report is punishable by a prison term of not more than 6 months, a maximum fine of \$5,000, or both.

## How does the Yukon administer child protection services?

In the Yukon, the Department of Health and Social Services (HSS) is responsible for the quality and delivery of a full range of health and social services, including child welfare services. The child welfare system in the Yukon is directly operated by the Yukon government under the administration of the Director of Family and Children's Services.

The responsibilities of the Department of Health and Social Services include:

- Overseeing the quality and delivery of child protection services;
- Interpreting legislation and developing programs, policies and procedures;
- Setting priorities and providing leadership for family and children's services on a territorial basis;
- Providing statutory training for both the child protection and adoption services programs; and
- Providing consultation, mentoring and support to field level staff.

The Yukon government provides a range of social service programs, include early intervention and support to families and children, child protection services, adoptions, family violence prevention, and services for mental health and addictions.

## What is the role of the child protection worker?

The role of the child protection worker is to act in the best interests of children by:

- protecting children from harm,
- investigating allegations or evidence that children may be in need of protection,
- providing care for children for whom it is not safe to live at home,
- supervising children assigned to agency supervision under the *Children's Act*,
- providing comprehensive planning for children in permanent care,
- providing families with supports and services to promote their health and integrity, being mindful of the importance of preserving the cultural, racial, religious, and linguistic heritage of children and their families, and
- providing adoption services and placing children for adoption.

## What happens after child maltreatment is reported?

When a report of suspected child abuse or neglect is received by the Department of Health and Social Services, the social worker conducts an assessment to determine whether the child is being, or is at risk of being, maltreated. If a child's safety or well-being is in immediate danger, the social worker will take action to ensure the child's safety, including taking the child into the care of the Director if needed and only as a last resort.

Social workers focus on keeping families together using the least intrusive methods possible to ensure a child's safety. If the investigation indicates that there are child protection concerns, the social worker will collaborate with the family and may enter into a voluntary agreement to address those concerns. If required, the social worker may request the Court to order supervision of the child in the family home or to place the child in temporary or permanent custody of the Director of Family and Children's Services.

If a parent or guardian asks the Department of Health and Social Services for support services, the social worker will conduct an assessment and may enter into a voluntary agreement with the family to provide counselling, in-home support, respite care, parenting programs, mediation services, support services to youth, alcohol and drug treatment, or other services to assist the family in caring for the child.

## How does the child welfare system in the Yukon work for Aboriginal children?

Federally, 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 matters of child welfare and in other situations. First Nations children in Canada are not only considered to be members of their families, but also members of their First Nations.

The Yukon has 14 First Nations, of which 10 are self-governing, although none are directly delivering their own child welfare services at this time. Currently, First Nations people receive child welfare services directly from the Department of Health and Social Services.

Unlike many provincial jurisdictions in Canada, the Yukon does not currently have a separate child and family services program for the Aboriginal population or receive specific federal funding for separate Aboriginal child and family service agencies.

The Department of Health and Social Services follows a number of protocols and policies for collaborative

planning with First Nations when there are child welfare concerns. These protocols and policies direct that the first priority for placement, when a child cannot remain in the parental home, is with the extended family, the child's First Nation, and within the community. Also, there must be consideration of First Nations children's cultural, linguistic, and spiritual or religious upbringing and ties.

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- 1 This information sheet has been reviewed by child welfare experts. Thanks are extended to Elaine Schroeder, Director, Family and Children's Services, Yukon Department of Health and Social Services.
  - 2 *Constitution Act*, 1982, being Schedule B of the Canada Act, 1982 (U.K.), 1982.
  - 3 Government of Yukon. *Yukon facts: land*. Retrieved February 20, 2008, from <http://www.gov.yk.ca/facts/index.html#land>
  - 4 Government of Yukon. *Yukon facts: population*. Retrieved February 20, 2008, from <http://www.gov.yk.ca/facts/index.html#population>
  - 5 Yukon Bureau of Statistics, 2007. *Demographic statistics: Aboriginal data, 2001 census*. Retrieved November 26, 2007 from <http://www.eco.gov.yk.ca/stats/census/census01/aboriginal.pdf>
  - 6 *Children's Act*, R.S.Y. 2002, c. 31. Retrieved November 26, 2007 from <http://www.canlii.org/yk/laws/sta/31/20060728/whole.html>

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