

SEEN BUT NOT HEARD

The Office of the Child and Youth Advocate

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Message from the Child and Youth Advocate

For most children, home is a safe, loving and nurturing place. Their needs are met and they are respected. Their jobs are to learn, to play, and to become contributing members of society through guidance and direction they receive at home. Sadly, the children involved in this investigation did not have this experience and footing in life in their tender and formative years. They suffered years of abuse and neglect within their family, despite involvement of government's child protection services. After their eventual removal, they suffered further abuse by some who were paid caregivers. This is never the experience we want for children.

Under my authority and duty as defined in the **Child and Youth Advocate Act**, I am providing the following report of our investigation into the experiences of these children and the system which should have protected them. I have made every effort to ensure this report does not identify these children and I take this responsibility very seriously. I ask that readers and the media respect this privacy and not focus on identities or locations. The purpose of this investigation is to learn from these sad circumstances and to make improvements for children in the future.

These children did not deserve what happened to them and it was not their fault. I want to clearly state this. While this seems to state the obvious, I still see victim-blaming in our society. Adults were responsible for these children and they failed. I truly hope these children find a path to healing and their welfare is the first consideration. And I hope they are heard.



Jacqueline Lake Kavanagh, MSW, RSW

Child and Youth Advocate

Table of Contents

Introduction	3
Case Summary	5
Findings and Recommendations	7
a. Early Intervention and Prevention	7
b. Mental Health: Services and Professional Development	10
c. In Care Services	13
d. Permanency Planning	14
Conclusion	17
Appendix A - References	19
Appendix B - Investigative Documents and Interviews	21

Introduction

The Office of the Child and Youth Advocate

Newfoundland and Labrador's Child and Youth Advocate is an independent Statutory Officer of the House of Assembly. She derives authority from the **Child and Youth Advocate Act**. The role of the Advocate is to represent the rights, interests, and viewpoints of children and youth in Newfoundland and Labrador.

Investigative Reviews

Section 15(1)(a) of the **Child and Youth Advocate Act** provides the Advocate with authority to receive, review and investigate a matter relating to a child or youth or a group of them, whether or not a request or complaint is made to the Advocate. The Advocate may release a public report upon completion of an investigation. The purpose of the report is to present findings regarding the services provided to young people and to make recommendations that will help prevent similar incidents from occurring in the future.

This investigative report does not assign legal responsibilities or draw legal conclusions, nor does it replace other processes that may occur, such as investigations or prosecutions under the **Criminal Code of Canada**. It is intended to identify and advocate for system improvements and meaningful changes that will enhance the overall safety and well-being of young people who are receiving designated services. It is not about finding fault with specific individuals.

The investigative process may include sworn interviews, review of documentation and reports, file reviews, policy analysis, legislative consideration, consultation with experts, examination of critical issues, research, and other factors that may arise for consideration.

About this Investigation

This investigation was called when it was learned that a group of siblings had disclosed years of physical, sexual, and emotional abuse and neglect by their parents while they were receiving protection services. The investigation involved sworn interviews, a comprehensive review of case file documents, and an examination of relevant policy and legislation.

Case Summary

This case involved children subjected to years of abuse within their family. The abuse was physical, sexual, and emotional in nature and also included neglect. The family had been in receipt of services from the Department of Children, Seniors and Social Development (CSSD) and its predecessors and legacy departments for many years and continues to do so. During that time, CSSD had received many child protection reports before taking the children into care. The court case resulted in criminal convictions. CSSD files included extensive child protection issues including:

- Confinement and lack of stimulation
- Food deprivation and poor nutrition
- Harsh physical discipline
- Sexual, physical and emotional abuse

The Office of the Child and Youth Advocate first became aware of this family when the mother called seeking more access to her children. With the removal of a parent from the home, CSSD hired a home care agency to assist a family member to care for the children. This did not work out, and CSSD transformed the family home into a staffed residential arrangement under a Protective Care Agreement. The children disclosed a history of prolonged and severe abuse. These disclosures eventually led to the criminal conviction of family members. The children then came under a continuous custody order and CSSD assumed permanent care of the children.

CSSD engaged two successive home care agencies to provide care for the children, before and after their removal. CSSD regularly used the services of a home care agency for respite and supervised access in the home prior to the parent removal from the home. Although home care workers were intended to provide a steady presence in the home to ensure the children's immediate safety, they did not have adequate education, training, or experience to understand or deal with the complex issues in this family. The parents also knew some of the workers personally, which led to inappropriate interactions and potential conflicts of interest. The parents warned the children not to speak to social workers or to befriend the home care workers. The parents were challenging to work with resulting in many home care workers resigning from their positions in the home. This lack of continuity created further challenges for the children.

Prior to the court trial, one of the children disclosed to CSSD and to the police that they felt like authorities had not believed them over the years. There were many instances where the children reported varying levels of physical or emotional abuse. CSSD had received multiple child protection reports regarding the parents' use of physical discipline. The police investigated many times. The parents denied the abuse, and CSSD or the police indicated not being able to verify the concerns because of lack of evidence, or because the children would later say the abuse did not occur in efforts to protect their parents.

After the children's removal, CSSD turned the family home into a staffed residential arrangement with no primary parent figure. CSSD received reports of harmful and abusive interactions between some home care workers and the children. One incident in particular resulted in a home care worker's dismissal and criminal charges. CSSD dismissed several other workers due to inappropriate interactions with the children. Some of the staffing issues related to hurtful comments, physical altercations, assault, inappropriate first aid practices, and poor nutrition for the children. While these types of concerns had prompted the children's removal in the first place, they then found themselves subjected to this abuse from "helpers". CSSD's documentation shows that the home care workers lacked the education, training, and experience needed to care for a family of children who had experienced complex trauma. This was an unsatisfactory arrangement for severely traumatized children and further negatively impacted them.

This staffed residential arrangement continued for approximately two years before the children were moved to long-term foster homes. This particular arrangement involved workers rotating through the home on a shift system. CSSD documentation acknowledged that staffed residential arrangements should not be long-term for children and that the placement of these children lasted far too long. However CSSD indicated its priority was to keep the siblings together as long as possible, and foster home placements were not available.

There were a series of failures to provide the care and love that these children deserved. It began with their family and continued through lack of effective state intervention. The children said they felt they were not heard. No child should find themselves in the situation these children experienced.

Findings and Recommendations

After a detailed investigation, the Office of the Child and Youth Advocate identified several systemic areas for improvement:

- a. Early intervention and prevention
- b. Mental health responses, specifically:
 - i. Availability and access to services
 - ii. Professional development
- c. In care services
- d. Permanency planning for children and youth in care

a. Early Intervention and Prevention

Early in CSSD's involvement with this case, the family was considered low risk and in need of early intervention and prevention. The social worker indicated in the case notes that she was not meeting with this family as often as needed due to the demands of higher risk families on her caseload. CSSD recognized physical discipline concerns in the home early in its involvement. Over the years, this behavior escalated. CSSD received many concerns and reports about the children's well-being and safety. Appropriate and timelier intervention during the children's involvement with protection services was warranted.

The mother told CSSD social workers on various occasions that she could not handle the children in her care. Her abuse of the children escalated as they aged. The Regional Health Authority determined that several of the children were behind in their developmental milestones, such as crawling and walking. The parents confined the children to highchairs, playpens, couches, and to their bedrooms. Simple hygiene practices were forbidden (i.e. toothbrushing). On one occasion, CSSD received a child protection report that the children were prevented from using the bathroom at night. The allegation was denied, but was admitted several months later during a case conference. CSSD did not pursue it further at the time. Early in

CSSD's involvement, there was discussion about having a parenting capacity assessment and attachment assessment completed. They were completed years after the original recommendation.

CSSD knew that the children were frequently hungry. The school district appropriately reported numerous concerns to CSSD regarding food deprivation and lack of nutrition. Health documentation noted that the children did not gain adequate weight during infancy. The children got up in the middle of the night to find food, took leftovers from children at school, and fought with each other over food. After the children came into care, they disclosed that their parents had sometimes eaten at restaurants and left them in the car, and teased them with food. CSSD's financial documentation showed that the parents were receiving funds to care for the children. CSSD did not give due consideration to the issues of food deprivation, and did not treat each food deprivation report as a separate child protection report for investigation.

CSSD missed opportunities to explore the children's inappropriate level of sexual knowledge. Once the children were in care, they disclosed sexual abuse. CSSD treated some sexual concerns as child protection reports but did not adequately explore these concerns as they did other concerns in the family.

Two years before the removal, CSSD hired an external consultant to complete an independent assessment with this family. The consultant recommended that the children remain in the custody of their parents because although there were many concerns, the parents were entitled to the opportunity to parent. The consultant believed that the supportive services provided by CSSD reduced the risk to the children. However parenting rights do not and cannot supersede children's right to safety and security.

The home care services should have provided an opportunity to regularly gauge and monitor the behaviours in the home and family dynamics. However home support staff lacked the education, training, and experience to meet (or arguably to understand) the family's complex needs. Additionally, some of the home support workers knew the parents personally, which led to inappropriate interactions and potential conflicts of interest. CSSD accepted the limitations at the time just to have someone in the home monitoring the parents. CSSD also provided a number of services to the parents including Behavioral Management Specialist services, counselling and parenting programs. One of the parents completed the Nobody's Perfect parenting program several times with minimal success. Psychiatry and psychology services were also engaged.

The children in this case would have benefited from a holistic approach to child protective services from the moment they were on CSSD's radar. For much of the

timeline for this case, the **Child Youth and Family Services Act** governed the service. This law and associated policy spoke to early intervention and prevention, so the mandate existed. CSSD failed to assess an ongoing pattern of abusive behavior that was occurring in the home for many years. Earlier detection while the family was still low risk would have assisted CSSD with better opportunities for prevention and intervention and with the ability to develop a better plan for these children.

Recommendation 1:

The Department of Children, Seniors and Social Development improve prevention and early intervention services to children and families at risk.

Department of Children, Seniors and Social Development response:

The Department fully accepts this recommendation. A new parenting program was implemented in April 2017, a new decision-making model was implemented in March 2018, and preliminary work has begun to assess other opportunities to support children, youth and their families in improving their well-being. CSSD is working with other departments to ensure that programs and services that promote overall safety and well-being are targeting at risk populations.

Recommendation 2:

The Department of Children, Seniors and Social Development ensure that families requiring in-home parenting support and supervision are provided with qualified, trauma-informed support workers.

Department of Children, Seniors and Social Development response:

The Department accepts this recommendation and recognizes the importance of providing families who require in-home support with the most qualified support staff available. Where possible, CSSD aims to have in-home support provided by relatives or significant others to reflect the best interests of the children involved. In situations where informal support by family and significant others is not available, CSSD utilizes external agencies to provide in-home support to families. CSSD requires additional time to communicate with these agencies and explore potential options for training and development of their staff.

b. Mental Health: Services and Professional Development

Parental mental wellness is a critical factor in a child's well-being. This case was complex in many ways, including from a mental health perspective. CSSD's Family Centered Action Plan in this case stated that one of the parents was required to attend mental health appointments. The parent would frequently cancel or not appear for these appointments, yet this lack of compliance did not result in any consequences. Multiple mental health care providers involving psychiatry and psychology had been involved with the parents and had provided various assessments and opinions. These conflicting mental health assessments contributed to CSSD's assessment of risk in the family. The clinical program supervisor in this case noted that it has always been a challenge to receive timely and thorough mental health assessments on parents with active child protection files. CSSD relied on these services for its planning with and for the family.

CSSD indicated that social workers consult with mental health professionals to determine the recommended services for their clients. CSSD social workers then develop a plan in collaboration with the parent that clarifies expectations. With the exception of CSSD's own counseling services that provide individual, family, and group counseling to CSSD clients in St. John's and surrounding areas, CSSD relies on community partners to provide the necessary services. CSSD clients do not receive prioritized access to mental health services.

In an effort to support parents in accessing the necessary services to address their mental health needs, CSSD social workers refer clients to the appropriate mental health agencies. In accordance with the Protection and In Care Policy and Procedure Manual, social workers can arrange babysitting, respite, and transportation to ensure parents attend services outlined in their formalized plans. In the event that publicly funded mental health services are not available in a timely manner to address the family's needs, social workers can also arrange funding to cover the cost of private services. These policies were in effect while providing services to this family.

The Government of Newfoundland and Labrador's All-Party Committee on Mental Health and Addictions released *Towards Recovery: A Vision for a Renewed Mental Health and Addictions System for Newfoundland and Labrador* in March 2017. The report notes that families in the child protection system have difficulty accessing mental health and addictions services and this has a negative impact on children and youth. The committee recommended that the Department of Health and Community Services ensure that all young families have access to programs that focus on:

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- Parental coping skills to increase resiliency
 - Parenting skills and child development
 - Social and emotional competence of children

The committee also recommended that the Department of Health and Community Services develop and offer a range of mental health and addictions services within existing community and primary health care services throughout the province.

Recommendation 3:

The Department of Health and Community Services and the Department of Children, Seniors and Social Development collaboratively ensure full implementation of the child protection recommendations contained in *Towards Recovery: A Vision for a Renewed Mental Health and Addictions System for Newfoundland and Labrador*, specifically:

Recommendation 1: Provide all young families with access to programs that focus on parental coping skills to increase resiliency, parenting skills and child development, and social and emotional competence of children.

Recommendation 8: Some families with complex needs receive services from multiple government departments. Service managers at the regional level must be encouraged to develop mechanisms to work together to better meet the needs of these families.

Recommendation 14: Through a stepped-care approach, develop and offer a range of mental health and addictions services integrated, wherever possible, within existing community and primary health care services throughout the province, including the Strongest Families Program for children, youth, and their families.

Department of Health and Community Services, and Department of Children, Seniors and Social Development response:

The Departments fully accept this recommendation and have been working collaboratively to fully implement the child protection recommendations in Towards Recovery. A committee has been established to improve access to mental health services and prioritize children in care or at risk of going into care. The committee will work on short-term solutions for service delivery and develop a longer-term plan to ensure the service needs of this population are met. Other committee work is also underway, specifically on Recommendations 1 and 8 of Towards Recovery.

With regard to Recommendation 14, the Strongest Families Program continues to be available to children, youth and families to provide skill-based educational programming to help deal with issues such as behavioral problems, depression and anxiety. A further stepped care initiative is in development for ages 0 to 25. A plan is being drafted for young people ages 12 to 25, which will provide multi-sectoral walk-in services to help children and youth across the full continuum of needs from prevention and early intervention, to complex needs requiring psychiatric hospitalization.

Recommendation 4:

The Department of Children, Seniors and Social Development seek and create opportunities to collaborate with Memorial University and other service providers and experts to address the professional education of child protection social workers in the areas of child protection assessment and intervention with parents who have complex mental health diagnoses.

Department of Children, Seniors and Social Development response:

The Department fully accepts this recommendation. CSSD's Training and Development Unit will seek to organize and offer sessions to front line social workers and supervisors about child protection assessments when working with parents and children who have complex mental health issues. CSSD also offered Trauma Informed Practice training sessions to all CSSD staff in November 2018. CSSD will continue to collaborate with Memorial University's School of Social Work to enrich the learning experiences of students and prospective future employees.

c. In Care Services

When these children initially came into care, they lived in the family home with rotating staff from a contracted home care agency. CSSD indicated that it was a challenging arrangement and it was the first placement of its kind in that area of the province. The children would have benefitted from skilled child and youth care workers. The home care workers in this placement did not have the education and experience needed to work with children who had experienced severe and complex trauma.

CSSD may use a live-in parent model with supporting rotating staff, or a fully rotational staff model as in this case. The children's counsellor voiced her concerns to CSSD on several occasions regarding the length of time the children spent in a staffed residential arrangement. The counsellor had recommended that CSSD use the live-in parent model at the time, as opposed to rotational staff. CSSD showed hesitancy to using the live-in model, as it was a new initiative at the time. A primary concern of the counsellor was that the children did not have a primary caregiver, which would create attachment issues for the children.

CSSD implemented its Standards and Procedures Manual for Staffed Residential Placement Resources after this investigation began. The manual includes standards and procedures that were lacking while these children were in care. These include educational and training standards, core competencies of residential staff, supervision, nutrition, appropriate discipline, health and hygiene, and permanency planning. Ensuring enforcement and compliance with these standards is a critical task for CSSD.

It is widely recognized that staffed residential placements are not an ideal place for children to grow up. Lack of foster care options was a key consideration in CSSD's decision-making related to this particular model of residential placement and the children's length of stay. Availability of foster care, especially for complex cases such as this family presented, continues to be a challenge.

Recommendation 5:

The Department of Children, Seniors and Social Development:

- a. Monitor and enforce compliance with the Standards and Procedures Manual for Staffed Residential Placements**
- b. Develop procedures to effectively identify and address non-compliance to ensure the well-being of children**
- c. Provide an annual compliance summary to the Office of the Child and Youth Advocate**

Department of Children, Seniors and Social Development response:

The Department fully accepts this recommendation. When issues are identified in a placement, CSSD social workers will address the concerns with placement staff or management. Where needed, regional staff will consult with the Policies and Programs branch of CSSD's Provincial Office. Identified issues, and their resolutions, are monitored through CSSD oversight processes including regular social worker visits to the home, monthly reviews and, where necessary, increased oversight by social workers until the issue is resolved. Whenever CSSD receives or identifies a more serious concern, such as an allegation of maltreatment or quality of care issues, an investigation may be launched into the placement resource, as per the investigative process outlined in policy and referenced in Section 15 of the Service Agreement.

To monitor compliance with standards generally, CSSD has developed monthly and annual review processes to provide proactive opportunities for review and improvement, where required. Oversight and monitoring of Level 4 placement resources will be further strengthened through the licensing, enforcement and regulatory regime included in the new Children, Youth and Families Act, expected to be proclaimed in June 2019.

In previous years, CSSD has provided the OCYA with an annual compliance summary contained in the Annual Report for each Service Provider. CSSD is committed to providing the OCYA with a summary of service provider compliance with regulations.

d. Permanency Planning

Once CSSD received a continuous custody order for the children's care, it took almost two years for the children to have a long-term plan in place. CSSD staff indicated that the children were in a staffed residential placement longer than expected because CSSD tried to balance the needs of the children with a lack of appropriate placements. Unfortunately, CSSD stated it could not meet the permanency needs of these children in a timely manner due to lack of resources suited to this family with such complex needs.

CSSD indicated that its policy directs that permanency planning must be paramount in all decisions regarding children in care. Policy 3.1 of the Protection and In Care Policy and Procedure Manual outlines the responsibility of the social worker, in consultation with the child's In Care Planning Team, to ensure that the child or youth is the primary focus of all planning and decision-making. Where developmentally appropriate, the child or youth is included in permanency planning. This planning may include reunification with a parent, custody with a relative or other

significant person, adoption, or transition to living independently. If reunification cannot happen, the preferred permanency plan is adoption or some other form of legal permanency for the child. CSSD also reported that each child's In Care Planning Team must meet regularly and include the child or youth where developmentally appropriate, the social worker, the parents, the foster parents or residential staff, community partners such as a teacher or counselor, and other persons significant to the child. Social workers must document their planning on behalf of children and youth in the In Care Progress Report, which is developed and updated at least every six months and includes permanency planning. The OCYA notes that the practice of immediately beginning permanency planning for a child is still not a consistent or universal practice.

The Government of Newfoundland and Labrador released The Way Forward initiative in November 2016. One of its commitments was to identify strategies to address continued program growth in children's protection and in care services, including a review of permanency planning for children in care. Permanency planning remains a current and important issue requiring attention and change.

Recommendation 6:

The Department of Children, Seniors and Social Development ensure specific measures are taken for permanency planning to be an integral part of intervention with all children receiving child protection and in care services.

Department of Children, Seniors and Social Development response:

*The Department fully accepts this recommendation. CSSD recognizes that social workers require additional policy direction and guidance related to permanency planning for children and youth receiving services from the Department. The new overview, associated policies, and the training that will be provided to staff on these new policies will enhance understanding and provide direction on permanency planning for children and youth throughout their involvement with CSSD. The overview will be based on the philosophy that permanency planning begins at the first point of contact with a family, and permanency is a key point in all critical decisions in working with children, youth and their families. It is anticipated that these policies will be issued to support proclamation of the **Children, Youth and Families Act** in 2019.*

Conclusion

A key commitment of the Office of the Child and Youth Advocate is to ensure responses and services meet the needs of vulnerable children. This investigation examined the approach to child protection and in care services for a family with complex needs. The children experienced abuse that no child should ever have to endure. When reported to authorities, there was a failure to adequately respond. When the children were taken into care, they experienced further maltreatment at the hands of some of their caregivers. The system established to protect these children failed them.

Canada signed the United Nations **Convention on the Rights of the Child** on May 28, 1990 and ratified it on December 13, 1991 with support from all provinces and territories. The Convention is the most universally accepted human rights framework existing in the world today. It speaks to the civil, political, economic, social, and cultural rights of children throughout the world. Articles 3, 9, 19, 20, 24, 25, 26, 27, 34, 37 and 39 speak to children's rights to safety from abuse and maltreatment, for protection from cruel punishment, for protections and supports when hurt or abused, for review of alternate living arrangements to ensure they are the most appropriate, for government help when poverty is an issue, for basic needs to be met which includes food and clothing. Article 12 asserts that children have the right to give their opinion and for adults to listen and take it seriously. The children in this family were seen but not heard, and they said this clearly when criminal charges were finally laid. This long list of children's rights contained in the Convention were violated in this case, and these children were not adequately protected.

Appendix A

References

Child and Youth Advocate Act, SNL 2001, c. C-12.01.

Child, Youth and Family Services Act, SNL 1998, c. C-12.1.

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Government of Newfoundland and Labrador. Department of Child, Youth and Family Services. (2015). Standards and Procedures for Staffed Residential Placement Resources.

Government of Newfoundland and Labrador. (2016). The Way Forward: A Vision for Sustainability and Growth in Newfoundland and Labrador.

Government of Newfoundland and Labrador. All-Party Committee on Mental Health and Addictions. (2017). Towards Recovery: A Vision for a Renewed Mental Health and Addictions System for Newfoundland and Labrador.

The United Nations. (1989). Convention on the Rights of the Child.

Appendix B

Investigative Documents and Interviews

Documents Reviewed:

Department of Children, Seniors and Social Development and legacy departments

- Protective intervention file
- In care files
- Behavioral Management Specialist files
- Counselling files

Department of Health and Community Services

- Regional Health Authority files
- Other health care files

Department of Justice and Public Safety

- Police files
- Court documents

Department of Education and Early Childhood Development

- Regional School District files

Investigative Interviews:

- Investigative interviews were conducted with staff from the Department of Children, Seniors and Social Development.



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