



Plecas Review, Part One: Decision Time

A review of policy, practice and legislation of child welfare in BC in relation to a judicial decision in the J.P. case

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VICTORIA, BC

December 4, 2015

Dear Minister Cadieux,

On July 24, 2015, the government announced it intended to conduct an independent review of the circumstances surrounding the J.P. case. On August 7, 2015 I was designated by you as a Director pursuant to s. 91 of the *Child, Family and Community Service Act* (the *CFCS Act*) for the purposes of conducting this review. The original deadline for the production of a final report was October 13, 2015.

My original Terms of Reference stated the following objectives:

1. Assess if the child protection practice and actions taken by ministry staff, supervisors, and legal counsel contracted to represent the Director under the *Child, Family and Community Service Act* (CFCSA) were consistent with legislation, policies and standards during the Ministry of Children and Family Development's (the 'ministry') contact with the family during 2009 to 2012;
2. In the context of the J.P. case, particular focus will be given to when a child protection matter also involves private custody and access issues between parents, particularly when there are applications, proceedings, or orders involving the provincial court and Supreme Court of British Columbia;
3. Examination of the ministry's legislation, policies, standards and practice to provide the appropriate degree of guidance with respect to child protection practice in cases involving custody and access disputes, including orders from the provincial court and Supreme Court of British Columbia and/or Acts; and
4. Provide recommendations to improve the ministry's practice, policies and standards.

On August 7, the Province of BC appealed the ruling in the J.P. case to the Appeal Court of BC. This matter remains before the Court.

A number of events intervened to prevent me from meeting the timeframes set out in the original Terms of Reference, most significantly, proceedings before the Information and Privacy Commissioner and the Supreme Court of British Columbia, which sought to restrict our access to records associated with the J.P. case. Those matters have now been decided in a manner that permits full access to the materials but unfortunately, our child protection expert Dr. Deborah Goodman's professional commitments prevent her from providing her input into specifics of the case until next spring.

My Terms of Reference were accordingly amended on October 9 (see Appendix 1). Paragraph 1 from the original Terms of Reference was amended to read:

1. Examine the child protection legislation, policy, standards and practice and actions taken in the J.P. case by ministry staff, supervisors and legal counsel, contracted to represent the Director, under the *Child, Family and Community Service Act* (CFCSA) and provide

prospective recommendations regarding how any errors or omissions evident in the case can best be minimized or avoided in future child protection matters

The following was added to my deliverables:

- An Interim Report on the comparative analysis of applicable legislation, policy, standards and practice and recommendations for the improvement of Ministry, and other, systemic processes.

It is pursuant to the October 9 amended Terms of Reference that I conducted this phase of my review.

On November 9, 2015 I wrote recommending my interim report be submitted on December 4, 2015 and made public on December 15, 2015. This would enable my interim findings to be considered in the government's planning cycle for next year. On November 30, 2015 you agreed.

As mentioned, a final report will be available in spring 2016, as Chief Justice Hinkson's October 28 decision¹ confirmed our ability to complete a full report. This is an unfortunate result of delays caused by numerous tribunal and court interventions. However, we turned the problems caused by the delays into an opportunity. We considered the basic issues raised in the J.P. case as an aggregated case study and this allowed us to proceed with a broader review of the Ministry as it was during the case and as it is today, thereby meeting those sections of our Terms of Reference.

Minister, this has been a stop-and-go review project due to many emotions running high and various legal proceedings, but I am comfortable in advising you that I think we have met the requirements of the Terms of Reference with this report, to be followed by a final report to complete the project.

I therefore submit my report with great respect.

Yours truly,

Bob Plecas

¹ *J.P. v. Plecas* [2015 BCSC 1962]

Preface

I have reviewed many of the reports on child welfare in British Columbia that have been written over the last twenty years. I have focused on a few key ones: the *Report of the Gove Inquiry into Child Protection in British Columbia* (the *Gove Report*), 1995; the *BC Children and Youth Report* (the *Hughes Report*), 2006; and the 29 reports that have been issued by British Columbia's Representative for Children and Youth (the *Representative*). One becomes accustomed to the style.

The authors of the reports above are all lawyers and judges. They examine evidence and make judgments. My grandfather used to say if your watch is broken you have two choices: take it to a lawyer if you want to sue the watch company, or take it to a jeweler if you want to get it back running on time. My experience is more like a jeweler's, but a jeweler who fixes complicated government organizations.

This independent review will look and read differently than earlier reports; more like advice from a management consultant. I will provide advice which can be accepted or rejected; advice that is given with consideration of the overall public, political and administrative environment that the Ministry of Children and Family Development (MCFD) works within.

I would like to provide some context that I think illustrates the challenge government must address as it considers my advice. In the days immediately preceding delivery of this report, the media described a report issued by the First Call Coalition, calling on the province to develop an anti-poverty strategy for children in BC. This would require leadership and the investment of resources – in other words, the spending of tax dollars. This call was released on the same day that the Minister of Finance announced a dramatic decrease in tax revenues from natural gas.

BC is a small open economy and issues such as these are inextricably linked. In my view, too many reports just make recommendations and expect government to find the money to implement them. I used to oversee the administration of the legislative buildings and I can attest that there is no printing press for dollars hidden in the basement. If economic growth was at 5 per cent per annum, there would be lots of money to spend on programs, but that is not the case. So choices must be made.

I can assure the reader that this will not colour my advice, but my advice will not be made in a vacuum ignoring the tough decisions that are required.

I have been fortunate in assembling a team with about 200 years in administrative experience in child welfare, law and business. Their short resumes are included as Appendix 2.

In particular I must thank the Child Welfare League of Canada for recommending the services of one of Canada's leading experts in child welfare matters, Dr. Deborah Goodman, to participate on our team. She has provided wise counsel in many areas, and will be of great assistance in the specific case review that will be completed in the spring of 2016.

The report could not have been written without the able advice of this team.

Nor could it have been written without the advice of the front line workers, team leaders, MCFD After Hours staff, and executive members who gave their frank advice; or the wise counsel of BCGEU President Stephanie Smith, the officers of the Vancouver Police Department (VPD) led by Deputy Chief Doug LePard, who I will speak about in more detail in the next phase of my report. I also benefitted, as I have in the past, from the advice and insights of two wise men – Ted Hughes and Ed John.

However, the views, conclusions and advice that are set out in this report are, at the end of the day, mine.

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PLECAS REVIEW, PART ONE: DECISION TIME

1.0 Summary of the case

The issue that gave rise to this review was the J.P. case, where the conduct of child protection social workers employed by MCFD was sharply criticized by Mr. Justice Walker of the Supreme Court of BC who presided over a lengthy high-conflict matrimonial and child custody trial under the *Family Relations Act* (see: 2012 BCSC 938). This was followed by a similarly lengthy civil action brought by J.P., seeking damages for negligence, breach of the standard of care expected of social workers in child protection matters, breach of fiduciary duties and misfeasance in public office (see: 2015 BCSC 1216).

Justice Walker made adverse comments regarding the way MCFD staff and others carried out their respective responsibilities throughout the course of their involvement with J.P., her estranged husband and the family's four children who were removed by the Ministry, pursuant to an order under the *Child, Family and Community Service Act* made by a judge of the Provincial Court of BC on December 30, 2009. He found that the Director of Child Protection and MCFD social workers had:

- Failed to properly investigate sexual abuse reports;
- Engaged with another investigative agency - the Vancouver Police Department (VPD) - in a manner that misdirected and tainted the associated police investigation;
- Wrongly removed the children based upon a mistaken and unreasonable belief that the mother was suffering from a mental illness that compromised her capacity as a parent;
- Failed to adequately inform a judge of the Provincial Court of all relevant circumstances when seeking an apprehension order that resulted in the children being held in care for almost two and one half years before being returned to the care of their mother;
- Failed to comply with access and custody orders that Justice Walker had made in December of 2009 prior to the making of the apprehension order in Provincial Court; and
- Facilitated the father having unsupervised access to the children resulting in the further sexual abuse.

Justice Walker's July, 2015 judgment is now subject to an appeal that will be heard in the coming months by the British Columbia Court of Appeal. As noted earlier, the circumstances associated with the involvement of MCFD staff, and others, with the J.P. matter will be the subject of a comprehensive file review to be completed in the spring.

The J.P. case's characteristics have been considered as if they were the aggregated findings of several cases. This has allowed me to look at MCFD's policy, practice and legislation during the period of the case to be reviewed, against what it looks like today. This report will also address the general context regarding the scope of investigations, interaction with other investigative agencies, and factors that should be considered in addressing the implications of inconsistent judicial orders in multiple proceedings.

2.0 Overview

As a substitute guardian, the state can never replace a parent.

It is my view that the people with primary responsibility for children are, simply and appropriately, their parents. Fortunately, the vast majority eagerly accepts that responsibility, and fulfill their obligations with love and affection.

The second level of responsibility lies with the extended family of grandparents, siblings, aunts and uncles, cousins, god-parents and other family and friends. Extended families have usually learned through good times and bad how to love and support each other. They also know their own strengths and weaknesses far better than the state ever could. They should be rightly proud of the roles they fill.

The third level of support for our children is based in the communities where they live. Supports can include volunteer groups, sport organizations, schools, churches, and Aboriginal communities and groups. In more urban centres, supports include many sophisticated social services, whether paid or volunteer. We all know that neighbourhoods and communities that work together build stronger communities and healthier families.

However, when a child falls through the cracks of all these supports, and families and children find themselves needing help, they turn to government. Most times, government is voluntarily accessed through other community service providers such as mental health services or government-funded counselling and support programs. Sometimes, government is accessed after the police or others report incidents of inappropriate or unlawful behaviour. And the system responds – most times – with solid, heartfelt solutions. It succeeds, again and again, because of the dedication of front line staff who consistently work within a highly demanding environment.

I carried out a previous review of an unfortunate child welfare case back in 1997. I had been out of government for five years, and was asked by Premier Glen Clark to return, implement the recommendations of the *Gove Report*, and build a new consolidated Ministry for Children. All of the issues were unfamiliar to me, even though I had worked extensively in government. For me, child welfare was a steep learning curve.

With the learning came an understanding of the reality of child welfare, and I wrote the following in my 1997 report:

Children in Canada are starved, beaten, abused (both sexually and physically), born with FAS, FAE, NAS and AIDS, and even killed. In nearly every jurisdiction they are under review by coroner or public inquiry into child protection. The families of these children are not under suspicion; however the government agencies are, and are held accountable in the media.

The family safety net, which in simpler times included neighbours, siblings, parents, caregivers and others has come, in our urbanized modern society, to mean government responsibility. Program after program tries to respond to these crisis, but we will always fail at the margins because no government can design enough new programs to keep up with modern reality.

But we did learn that we can design intervention systems that will dramatically impact this reality....

There are three things that make up any transition plan: money, people and time.

More money and people are often useful, but in this case, time is what is needed. Time to change the culture. Not only of the Ministry, but of the public, the community. It does take a village to raise a child.

And time is what you may not be given. A year from now the system will be improved, but it will still fail: some children will be abused and die.

A year after that, even with children's issues being given the priority of health care and education, the system will improve, but some children will still be abused and die.

For this is the way of modern society, and only with a magnificent effort together could we change it, if then. Make it better – yes. Stop it – no. What level is acceptable? None! But unachievable. But with children, our future, our hope must always exceed our reach. This is what our soul searching review of internal policy and practice has produced.

Eighteen years have passed since I penned those words. I could have written them yesterday.

MCFD has always attracted a special kind of person to deliver these services in what I believe is one of the toughest jobs in government. Imagine going to work every day bearing the burden of knowing that, by end of your shift, you could be taking your neighbour's children away and putting them into care. Or visiting a house that is dangerous, dirty and ill-kept by parents who are using drugs and are resentful of society and the government you represent. Your job is to help children and parents stay together by providing them with supports, but you know that if you leave the kids there they are possibly in danger. One parent is swearing at you, and one is begging you to not take the kids, and you must decide to remove the kids or leave them with dysfunctional parents who, for better or worse, are the only family they know.

It is not a surprise that human mistakes occur in such a system. I am surprised, however, that when a mistake occurs, it is the fourth level of responsibility, the level that follows family, extended family, and community – government – which becomes the focus of responsibility and failure. If a tragedy occurs, front line child protection decision makers are the ones whose "heads must roll."

Any child abuse or death is a tragedy. Our society long ago agreed that we must work to prevent child abuse, but often we have extended this idea to a view that it is possible to prevent

all children from either suffering abuse or dying as a result of abuse and neglect. I think we must recognize that, in spite of best intentions, this is a myth.

It is also important to recognize that despite the perceptions of some, MCFD is not in shambles. To be sure, there are problems, many of which are amplified by a relatively small number of high profile and tragic cases, where one-off mistakes are compounded or stack up over time, and are then dramatized in the media or through public reports. But I am convinced that we are *not* well served by a system where fear constantly underlies every worker's day – a fear bred by what I would describe as a culture of relentless accusation.

Every year, MCFD's 1,200 child protection workers receive around 37,000 reports that a child is in need of protection. Of these, approximately 64 kids go into care for child protection reasons every week. About three quarters of these admissions to care are by court order, the balance by agreement with parents. At the same time, about 83 children and youth are discharged from care, 15 because they have reached the age of majority at 19. The remainder return to the care of their parents or other guardians. As a result, there are approximately 7,200 children and youth in care today.

Where are the stories about all the successes that go along with the work that MCFD does? I know they are there, but they do not exist in the public debate about MCFD. And yet, the Ministry provides a very wide range of services in a highly professional and personal manner to many of BC's families. Here are just a few examples from last year:

- 274 Adoption Placements over 2014/15;
- More than 28,000 clients seen by Child and Youth Mental Health Services in 2014/15;
- 3,181 foster homes were active in March 2015;
- 111,200 licensed child care spaces funded in 2014/15;
- Approximately 42,000 children from more than 29,000 families received a subsidy from the Child Care Subsidy Program in 2014/15;
- The Autism Funding program caseload served 10,823 children and youth in 2014/15; and
- The At Home Medical Benefits provided products and benefits to 3,237 children in March 2014/15.

Despite the broad scope of MCFD's responsibilities, in the public mind the essence of the Ministry is child protection. It is from these cases that public perceptions are born. It is worth repeating that a large majority of these cases are dealt with effectively and appropriately. But when one of them goes public, the front line and senior staff are blamed. In the past, senior staff were fired, often in a case where they had no direct involvement or control.

How do they sleep at night? Poorly.

The most difficult cases are created through a potent mix of one or many of the following: substance abuse, poverty, violence and abuse, poor parenting, court procedure missteps and human misjudgements. Tragedy may strike, and following one of these events the public looks for someone to blame. This does not happen with every child abuse case or child death, and fortunately and relatively speaking, they are not common. But one is one too many.

Let me be very clear: social workers should not be absolved from discipline or court processes when professional codes are violated. Just like other professions – doctors, lawyers, nurses, engineers – the people who work on the front line as professional social workers expect to be held accountable for their actions.

And like other professions, their mistakes – some honest and some less so – must be reviewed to ensure quality and to impose sanctions if required, so that the public is able to have confidence in the service. But we must separate mistakes from professional misconduct, and we must treat them differently.

Here, there is a paradox.

Currently, the child welfare system does not have a rigorous performance appraisal system in place, and does not define what good practice and good performance are in terms of expectations for outputs or outcomes.

On the other hand, the reality of a case manager's public exposure and personal humiliation is a stronger penalty – although clearly not anywhere near the order of magnitude of the child who is impacted by the mistake. These cases are isolated but dramatic because it is most often not when one mistake is made, but a cascading phenomenon caused by a series of mistakes.

MCFD started its life in 1996, based a high profile case, and the subsequent report and recommendations from Judge Tom Gove. Ten years later, after another high profile, difficult case, the then Minister felt the Ministry would benefit from another course correction. He appointed Ted Hughes to conduct an independent review. The *Hughes Report* laid out the seminal blue print for success and it was, quite rightly, unanimously supported by both sides of the Legislature.

But, I believe, the Premier's office felt these prescriptive recommendations alone would not break the mold and address the core challenges of the Ministry. The senior political leadership was apparently persuaded that government should adopt a fresh, new holistic approach: one that looked to a theoretical model of child welfare delivery that was being promoted in other jurisdictions in the USA and Canada. To implement these changes, a new Deputy Minister was appointed, a person with a reputation as a practice expert, but someone with perhaps more modest experience in directing the work of large organizations. The reasoning behind this move was that the theoretical model, when applied to service delivery, would transform MCFD and result in even better outcomes than Mr. Hughes had recommended. The approach became known within MCFD as the “Transformation” initiative.

The idea was topical and there were high hopes for the value of Transformation. Although an “action plan” was in place by July 2007, it remained very high level and did not specify actions that could be implemented. The Transformation initiative staggered on, stopping, starting and changing direction. The absence of clarity of direction generated substantial chaos and, while the Representative made considerable efforts to raise concerns that the initiative was failing, Cabinet and the Premier's office believed the narrative from the Deputy that the program was

going according to plan. There was no appreciation of the challenge of managing this change in a Ministry that had been in business for decades, with a culture that may have liked the theory but had neither the clear practical direction, nor the time or resources to implement it. Repeated attempts were made to take the "action plan" and turn it into an implementation plan, but even this was abandoned in January 2008 – leaving nothing for the field to put into place.

Throughout this time, the Ministry was being driven on the one hand to implement the *Hughes Report* recommendations, and the other to implement Transformation. Conflicting direction from head office always creates confusion and failure throughout an organization. Only the ability of front line staff to keep their heads down, protect the kids in their care, and do what they could to keep going – all the while continuing to build community partnerships – kept the Ministry afloat.

Critically, as MCFD was pushed and pulled between conflicting visions, it was also completely de-centralized, including the delegation of child welfare responsibilities. For a period of time there was not only no Provincial Director of Child Welfare but also no capacity to sufficiently carry out the oversight responsibilities associated with that office. This dance between head office and the field only exacerbated the general confusion that characterized the entire operations of the Ministry. Ultimately, Transformation was lost in translation.

In 2011, the Ministry turned a corner with a return to a more traditional and centralized model. Once again, there was a change in leadership with government calling on the skills of an experienced public servant as Deputy who did much to restore clarity, a trajectory that continues under the current administration. In 2015 MCFD is, in my view, finally finding its feet again, but twenty years after its formation the Ministry continues to struggle, not equipped for this century, and in need of repair. There clearly remains a fair distance to go.

A number of issues continue to exacerbate the challenges that MCFD faces. These are described in greater detail in the Observations section of this report, and include the following:

- A lack of effective training;
- The gradual erosion of program dollars;
- Challenges in recruiting and retaining appropriately trained front line child protection staff;
- A management model that does not include informing senior leadership about difficult cases until it is too late;
- Lack of communication about decisions from different levels of court;
- Inconsistency and lack of direction regarding advice and direction from outside legal counsel; and
- A Quality Assurance model that does not effectively translate the data it collects into clear direction for staff.

To build an effective child welfare system, all of these issues need to be addressed in a coordinated, planned process, over time and with long term solutions built on good planning, staff buy-in, periodic adjustments, commitment and appropriate resources from government.

British Columbia does not lend itself to cookie cutter outcomes because of its significant regional differences, and it is appropriate that decisions be made as close as possible to where

the client is. However, a solid core of dependable practice, standards, outcomes, quality assurance and audits – including for delegated Aboriginal agencies – must be in place if we are to deliver consistent outcomes. And there are clearly some basic outcomes that we must see across the province. The core of the Ministry’s business is about keeping kids safe and looking after them if they have to enter care. That doesn’t change from place to place.

The problems I articulate in this report cannot be solved only with good, well-intentioned recommendations, or by brilliant top-down direction, or by changes in senior administration, or by theoretical models that fashion themselves as silver bullets. More than 1,000 recommendations have been directed towards MCFD since it came into being. Despite all of these efforts, we continue to find a Ministry facing very similar challenges as those described 20 years ago in the *Gove Report* and ten years later in the *Hughes Report*.

There is a lesson here, illustrated by a quote often attributed to Einstein: *“Insanity is doing the same thing over and over again and expecting different results.”*

MCFD does a good job on the vast majority of cases in a rapidly changing world. But it has broken pieces because there have been too many changes for any organization to survive and be stable, and it has been slowly starved of the resources it needs to do its work.

As long as we have child poverty, inter-generational dependence on government, high unemployment, substance abuse and dependence, individuals with untreated, undiagnosed and recurring mental health problems, and communities that pay lip service to the concept of family and neighbours, we will always have an individual, most often as a family, or extended family member in a position of power, to abuse, and sometimes kill weaker members of society. Too often our children are the victims.

If we could walk a mile in the front line social worker’s shoes, to ride in Car 86 with a child protection social worker and a police officer, or spend a night with After Hours staff, or drive five hours to a remote community only to be denied access to the home or reserve, or attend at a home of a neighbour and have to remove their child because of violent threats, or be 24 years old and have to tell a 40 year old who is drunk and using drugs that they must stop and instead ensure that their children's clothes are washed and food is regularly on the table - all the while fearing for their own personal safety - we might begin to understand the job.

Imagine trying to do that job every single day with the Sword of Damocles hanging over your head: make a mistake or an error in judgement and the consequences may not only impact the safety of a child, but also leave you and your family pilloried and shamed in the public's mind.

Most of us, including myself, would not take it for a day. Fortunately, some see the job as a calling.

Collectively, we need to move beyond the blame game and to provide the required leadership for a successful plan. That leadership, in my view, starts with the elected Members of the Legislature in Victoria.

3.0 Realities of Child Protection in BC

British Columbia, like many other jurisdictions, began to develop an organized child welfare system in the early part of the 20th Century. Gradually over time, as happened in most other places in the West, the system of protecting children became more professional, more organized and much more effective.

By the late 1980's, there was a consensus within the Ministry that its legislation badly needed overhauling. In 1992, a team of Ministry staff, contractors and panel members toured the province in what was described as the largest public consultation exercise to date on child welfare issues, and comprehensive new child welfare legislation was introduced in the Legislature in 1994, and came into force in 1996.

At almost the same moment that the legislation was tabled, a criminal hearing was underway in Vancouver: the trial of Verna Vaudreuil for the murder of her young son Matthew created a media and political storm. The events that followed are well known - the appointment of Judge Thomas Gove as an Inquiry Commissioner, scathing media coverage of the public testimony, a damning Inquiry report, the appointment of a transition commissioner to oversee the implementation of the report, the appointment of a children's commissioner, and the creation of MCFD.

It is worth reminding ourselves of the scope of MCFD's work. For while it is a truism that every critical case is one too many, we must also remember the context in which these cases occur.

Every year MCFD safely serves within its system over 155,000 children and their families,² accounting for almost 20 per cent of the child population of British Columbia. Service is provided in six service lines:

1. Early Years Services (Early Childhood Development/Child Care)
2. Services for Children and Youth With Special Needs
3. Child and Youth Mental Health Services
4. Child Safety, Family, Youth and Children in Care Services, including Child Safety Services and Family, Child and Youth Support and Care Services
5. Adoption Services
6. Youth Justice Services

MCFD has 4,476 employees³ working in 47 Local Services Areas, with 182 offices throughout every corner of the province. The Ministry's annual budget (2015) is \$1,378,927,000, with about 77 per cent of the budget spent on providing subsidies or purchasing services from others in the community. For example, approximately \$775 million was paid to 6,100 contracted foster homes and community service agencies; while more than \$79.4 million in operating funding was provided to 3,940 child care organizations running over 5,000 facilities.

² MCFD, *Operational Performance and Strategic Management Report*, 2012

³ Includes all regular and auxiliary staff, both active duty and on leave, as of March 31, 2015: *MCFD Workforce Reporting, 2014/15 Fourth Quarter*. This represents 3,954 FTE's.

In its Child Safety, Family, Youth and Children in Care Services stream, MCFD receives approximately 37,000 protection reports annually. All protection reports are assessed, the outcome of which is one of:

- A Family Development Response (FDR);
- A child-protection investigation;
- Provision of or referral to support services; or
- No intervention required by the Ministry.

The bottom line remains striking: as of July 31, 2015, there were more than 7,200 children and youth in care in B.C. – roughly equivalent to the population of Merritt or Revelstoke – and of these, 60.6 per cent were Aboriginal children and youth⁴.

As with so many other social indicators about the lives of Aboriginal people – poverty, school participation and graduation, employment, access to clean water – the over-representation of Aboriginal children in government care is truly disheartening. Over the past 35 years MCFD and its predecessors have spent considerable time and made many efforts to address this challenge. Most have not succeeded in changing the situation, and, in fact, the proportion of Aboriginal children in care has grown as a percentage of the overall child in care population.

Some of the earlier attempts to respond involved changes to policies requiring greater efforts to reach out to bands and communities in planning for children. Later efforts focused on the creation of a network of delegated Aboriginal agencies.

The number and range of Aboriginal delegated agencies grew rapidly with the creation of MCFD in 1996. Funding was provided by the Ministry for additional services for the existing on-reserve agencies and a number of off-reserve agencies and a number of off-reserve and urban agencies were created. These were funded exclusively by the province. Conflict over funding and oversight continued throughout this period and Aboriginal organizations expressed concern about the slow pace of change for Aboriginal children. In response, a new initiative was launched in 2002. MCFD was exploring the creation of “authorities” to assume planning responsibility for the delivery of services.

Within the Aboriginal community there was a great deal of controversy about the idea and although initial discussions appeared positive, the proposal became mired in conflict. Much of this disagreement appears to have centred on different conceptions of the degree of autonomy for the authorities and the level of funding expected. Despite this fundamental disagreement, the discussions carried on into 2005. With the appointment of a new Deputy Minister in 2006, the initiative received significant new funding that resulted in an intense and, ultimately, unsuccessful push to create Aboriginal authorities.

⁴ MCFD *Performance Management Report*, vol. 6

The initiative did not resolve the long-standing fundamental issues in creating and sustaining viable Aboriginal child welfare services, funding and the identification of the necessary economies of scale to provide a full range of services to a very small population spread across a huge geography; and the balance to be struck between independently operating agencies and provincial and federal oversight and accountability.

It seems to me there is a great deal of bureaucracy, a lot of energy and money spent over the years on the delivery system, poor communications and not enough collaboration on the ground.

There are, however, excellent examples where band leadership works hand-in-glove with Ministry staff on removals, placements and court orders. But these are rare.

The Ministry has asked Grand Chief Ed John, a well-respected First Nations leader and former Minister of Children and Families, to help it find ways to address the over-representation of Aboriginal children in care.

I always remember that when I was Deputy Minister, Grand Chief Ed John took me onto his home community to visit the school and see the services they were providing. He arranged lunch with his elders in his home. One elder, a lovely older lady, told me a story. She said: "Mr. Deputy, in your culture you have something called a boogeyman who comes to scare your children if they are not good. In our culture we have the social worker."

Grand Chief Ed John is far better placed than I to find a way to bring the Ministry and Aboriginal community closer together on these issues. My only advice is that a wise government will move quickly to implement the direction he provides. When coupled with changes from this report, service delivery for both Aboriginal and non-Aboriginal people will be strengthened. A rising tide raises all boats.

We are also challenged in this province with a high rate of child poverty. Despite these and other significant challenges, our system has resulted in a rate of out-of-home care for children of about 10.1 per 1,000 (July 2015). This compares to an average rate of 12.4 for comparable provinces.

Statistics can be used to illustrate almost any argument, as we all know. I think though that it is important to remind ourselves, that MCFD by and large does an admirable job in addressing the needs of our most vulnerable citizens. Its workers are unflagging in their efforts to make sure our kids are safe, when those kids' families have failed to do the job themselves. There are clearly areas where changes need to be made, and we need to improve the outcomes for all our kids – especially our Aboriginal children and youth who face so many structural and institutional hurdles.

But let us not forget that the people who make up MCFD – the social workers who deal every day with harrowing situations, the mid-level managers stretched with competing demands and directions, and the executive leadership that attempts to guide them judiciously while constantly dealing with external pressures – these people are dedicated to what they do and, in a very large majority of cases, they are successful.

I'll turn now to a number of other observations that I have made in the course of this review.

4.0 Observations

Part of my mandate is to examine the conformance to policy in the J.P. case. Until my team conducts a review of the case itself – which, as I have noted, cannot occur until the spring due to previously mentioned legal and procedural delays – I believe the most helpful thing I can do is to understand and explain the circumstances under which such a case could occur.

In examining the context in which cases like J.P. take place, I have been asked to consider the state of the Ministry during the time in question, as well as today. In doing so, I considered both internal and external factors and have divided my observations into these broad categories:

Internal Factors

Management model
Change and stability
Staffing levels and models
Program funding
Quality assurance
Training and development

External Factors

Child protection's legal context
External oversight
Political trends and implications

A. Internal Factors

4.1 Management Model

MCFD has a fundamental flaw in its management model that is, in my view, cultural, structural and historical. MCFD is the only Ministry in government where *all* of its business is driven from the bottom up, and the executive has only a miniscule level of knowledge as to what is happening on a day-to-day, case-by-case basis. There is no incident reporting until a case reaches a critical stage: no early warning system, no flagging of potential problems, no oversight management of cases, just reaction when a crisis erupts.

Consider how a typical case may progress:

An incident is reported. A front line worker has 30 days to turn that into a case. The front line worker may discuss the case with their supervisor, who likely has 30, 40 or more cases to think about, so the incident may slip by or not be fully considered. The supervisor or worker may

seek out the area consultant for advice. Or they may go to the regional director, or to their community manager. Or they may deal directly with the area legal counsel.

Or they may not. The culture is: *we sort it out at the front line, just as we have always done. We are professionals and we do not rely on any one in management.* It seems to me that the model fosters a culture where social workers forget they are employees in a large organization, not individual practitioners.

As a result, no one in senior management knows about these situations unless help and advice are sought as the case is bumped slowly up the line. There is very little in the nature of an early warning system for incident or case oversight. Shouldn't alarm bells ring for the executive when a Superior Court and the Provincial Court are involved in the same case? Especially if abuse or domestic violence is involved? Many cases that should have received attention at an earlier point often don't until attention is focused on the matter by a whistle blower or an MLA, or the Representative, or through an adverse judicial decision or news report.

At present, management's approach tends to be disproportionately reactive.

Intertwined with this model is a strong sense among Ministry staff that "we have always done it this way," which causes conflict between front line workers and team leaders, middle supervisory management, and on up to executive leadership. The result, long in the making, is an "us vs. them" culture.

In my view, this is one of the reasons that MCFD's *Work Environment Survey* data over the past three surveys (2007, 2010 and 2013) show that while about three-quarters of respondents have a positive view of workplace teamwork and about two-thirds are positive about their immediate supervisors, only about half report confidence in executive-level leadership and the ability to stick to the Ministry's strategic vision, mission and goals. The BCGEU's excellent staff survey also clearly records these sentiments.

Overcoming that challenge will be, of itself, a demanding process.

The existing senior management team is made up of hard-working professionals, the vast majority of whom have risen up through the ranks. Not all of the middle and senior managers are from a child protection background or have experience in this field. This is understandable as five distinct ministries with staff and management came together and formed the children's ministry. That is recognized but it still causes angst for a child protection worker when he or she can't seek advice from their bosses because they have no background in their field. I think there are remedial steps that can be taken.

Senior management can introduce good practice, and – as the current executive is doing – implement much needed improved business practices.

But the executive team only reacts to difficult cases that come to their attention either through the courts, a whistle blower, an MLA, a report from an external agency (most often the Representative) or a media story. Then the hunt is on for who made the mistake and who to blame.

Looking Ahead

Two things are required to address the challenges of the current management model:

1. A major culture shift away from being blame-based to being learning-based; away from “us vs. them” to simply “us”.

This will require a clearly laid out plan of steps going forward on a myriad of fronts. From simplifying policy and practice, to staffing, salaries and benefits improvements, to program funding restoration to technological enhancements.

2. Development and implementation of an early warning system based on historic understanding, professional judgment and accurate data to identify cases that have characteristics that can lead to horrible outcomes for kids. I believe an electronically generated daily incident system can be developed using existing data and implemented without frontline staff spending more time on the computer. This is not a new system but an improved and necessary enhancement to current systems.

Senior management needs to understand and base its management responses on hard data and evidence. They must be an essential part of the loop, not to find or lay blame, but to help, advise, and find resources: to manage, not to react.

4.2 Change and Stability

When one sits back, as I have been able to do in the course of this review, and looks at the course of the Ministry since its formation in 1996, one ends up exhausted by the scope, pace, inconsistency, and questionable value of what has been constant and tumultuous changes in direction and leadership.

When it was first created in 1996, the Ministry had to adjust to the different cultures that came from the Ministries of Health, Attorney General, Education, and the old Social Services, all of which were imported alongside the child welfare protection core to form the new cohesive MCFD. We recognized that the component parts would come in “silos”, and it was my job as Deputy Minister to see them unpacked and placed into a single coordinated, barrier-free service. That process was supposed to take two years.

I made a mistake. I pushed the timetable for structural transfers of programs from the five contributing Ministries to six months from the recommended two years. That worked, but the mistake was I did not remain as Deputy Minister for the three to four more years I now recognize was required to drive the necessary cultural alignment. My successor exacerbated the problem by reversing the decentralized trend I had put in place, and moving to centralize the administration. This back-and-forth pattern of decentralization and recentralization has been endemic at MCFD since the day it came into being. It continues to the present day.

MCFD didn't have a chance, and hasn't since, to have a long range plan implemented under constant stewardship and buy-in from the whole organization. From its inception it has been bombarded with many external pressures. I am sure all of these were well-intentioned, but constant external direction and recommendations, as brilliant as they are, demand changes to

policy, practice or procedures. And through it all, front line staff must continue to make the difficult decisions that directly impact the most vulnerable people in our communities.

Here are some of my more specific observations regarding stability and change.

4.2.1 Lack of consistent leadership

While the value of consistency and continuity is broadly recognized, the reality experienced by MCFD – and those served by it – has reflected exactly the opposite. If anything, the only reliable constant has been a continuous change at the senior leadership level. Since the Ministry was established, there have been 13 Ministers (with none in place for more than three years), eight Deputy Ministers, and eight Provincial Directors of Child Welfare⁵.

And of course, every change at the Deputy Minister level brought with it a corresponding change within the senior executive team below the Deputy level.

Perhaps the most compelling example of the extent to which MCFD's instability has been institutionalized is with the office of the Provincial Director of Child Welfare. Since the inception of the Ministry in 1996, with the exception of the inaugural Provincial Director Ross Dawson who was forced to resign after four years, no subsequent Provincial Director has remained in the position for much more than two years. Almost all have been terminated or forced out in response to critical incidents over which they had only modest direct engagement. Six different Provincial Directors of Child Welfare have held the post and the longest period of "stability" was when it was simply left vacant from 2008 to 2011.

The churn at the upper levels of the administration is not the only stability issue that requires attention. At the field level, amongst social workers and, more specifically, those involved in child protection work who directly interact with families in crisis, the level of staff turnover is disproportionately greater than what can be found almost anywhere else within the extended public sector.

Not surprisingly, instability and turnover at the senior administrative level have had the inevitable impact of impairing the field's perception regarding the leadership capacity of senior management at the provincial level. While there is evidence of improvement on this front, field staff tend to believe that they get the job done *despite* the role played by management. I have run enough ministries to know that this characteristic is not restricted to MCFD.

The existing senior leadership team in Victoria is deeply committed to turning this around, but they are encumbered by the legacy of failed regionalization and transformation initiatives and, further, by the adverse perception of the first implementation of the Integrated Case Management System (ICM) which colours the view of the second iteration.

⁵ See Appendix 3.

4.2.2 Significant structural changes

As I have already suggested, structural change has been endemic at MCFD since it came into being in 1996. The Ministry has had imposed top-down government directions and programs that have not worked, not worked well, or are on track but require improvement.

During the time of the J.P. case, the Ministry was mired in a particularly convulsive period of structural upheaval, elements of which included:

1. Fundamental structural change over several years beginning in 2006, known as Transformation;
2. An initiative called *Strong, Safe and Supported*, which was implemented in 2008; and
3. The adoption of an approach known as CAPP (*Child and Family Support, Assessment, Planning and Practice*), which was introduced in 2010.

Transformation was concerned with the devolution of service delivery to regions and communities, and was to be led by a task team of about 40 people made up of staff from headquarters and regions. *Strong, Safe and Supported* emphasized regional autonomy, integration of Ministry programs, and program connections with other ministries and community organizations. CAPP highlighted the need for a strengths-based and holistic approach and called for integration of Ministry services at all levels.

Other initiatives and changes demanded staff attention such as the return of responsibility for the Children and Youth Special Needs program from Community Living BC, the implementation of the Child and Youth Mental Health Plan, the introduction of Family Development Response model, and the creation of an Extended Family Program.

The order of these events meant that for four years structural changes were taking place prior to and concurrently with the development and implementation of significant new practice approaches in child welfare. This led inevitably to uncertainty, confusion and frustration throughout the Ministry. Regional staff was concerned about the lack of clarity and ability to understand the initiatives, and it was unclear to staff what they were expected to do in the future.

Another top-down initiative was the idea of establishing child welfare authorities in the province, as I mentioned earlier in this report. In 2001 the Minister decided there should be five Aboriginal authorities and five non-Aboriginal authorities. Staff began to plan for independent authorities, but in 2004 this process abruptly stopped for the non-Aboriginal planning committee.

The commitment to the creation of the Aboriginal authorities remained, given the disproportionate number of Aboriginal children in care. This second model caused a huge shift in priorities within the Ministry starting in 2006. Major changes in philosophy, direction, resources and staff commitment were pushed into the system. It was a part of the Transformation initiative I have noted above.

The Aboriginal authorities initiative stopped on a dime, as it was called to a halt literally the night before the legislation was to be introduced in the Legislature in April 2008.

Having gone full speed in one direction, the Deputy Minister decided to go full speed in another: the introduction of a new way of delivering service, CAPP, which was widely regarded as a disaster. Instead of sticking with the old way of doing business, MCFD embarked on this new theoretical model. Nobody could figure out what it meant. It could not be implemented, but sheer determination by the frontline, along with key senior staff in Victoria who worked around the chaos, kept the Ministry in business.

The subsequent change of Deputy Minister in 2011 resulted in the reversal of several of these initiatives. In particular, an overall service structure was introduced that moved the Ministry from four highly decentralized regions into 13 Service Delivery Areas. The current Deputy Minister has worked to solidify this structure, and it is the basic approach that has been in place for the last four years.

These chronic directional and structural changes have been incredibly disruptive to the Ministry. But clouds can have silver linings. One of MCFD's success stories is that while every one of the top-down schemes failed, an incredible amount of innovation was happening in the field offices. Looking at the Premier's Awards for Innovation you find MCFD carried off more than its share during this time.

4.2.3 Policy and Practice Changes

The structural and directional changes noted above were accompanied by changes to practice standards and policy direction that have been equally unremitting. After the significant tumult brought about through Transformation, CAPP, and the other initiatives noted above, Ministry staff continues to face a well-intended but excessive number of changes to policy and practice. Senior management continues to create new policy, some of it driven by recommendations they get from external reviews, some of it imposed by central government, and some of it through ideas of their own, based on their experience and analysis about how services should be delivered.

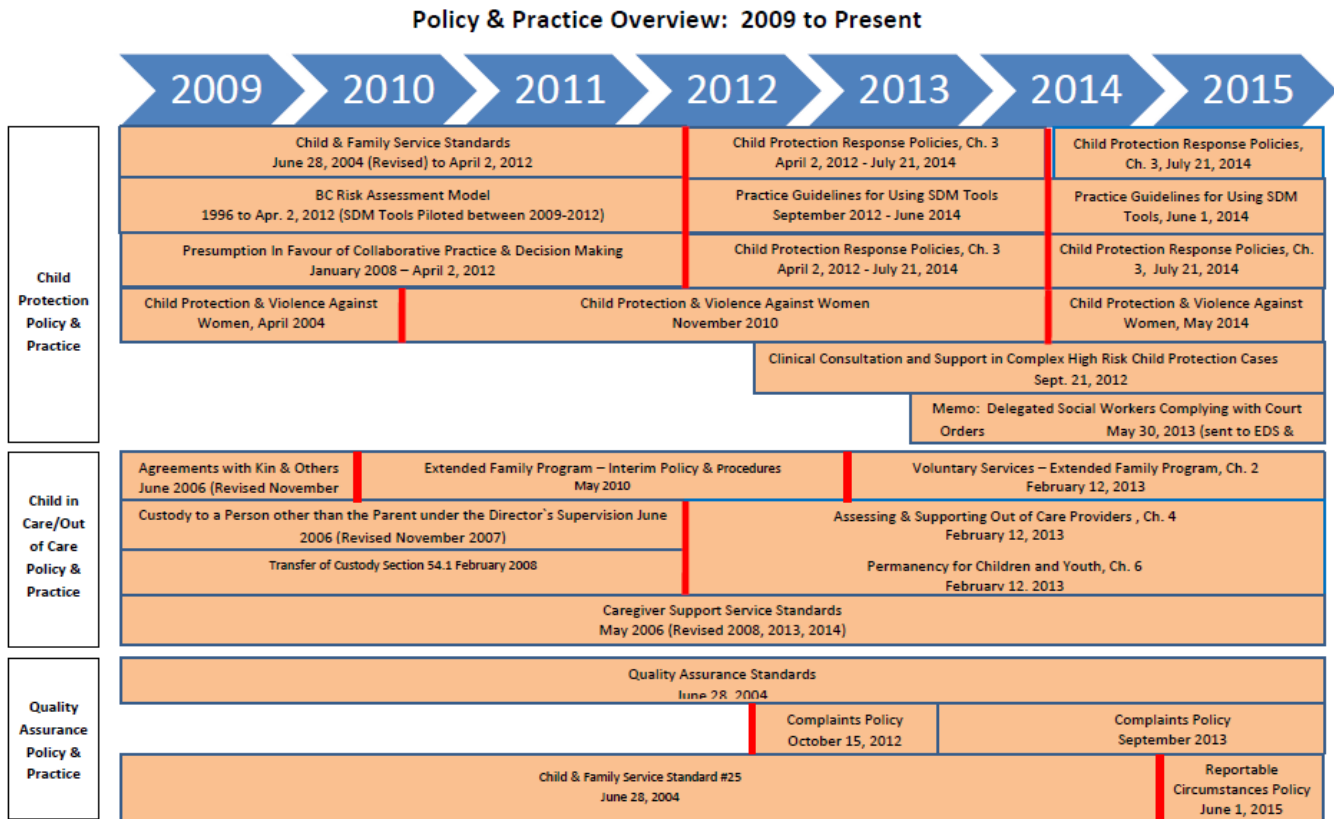
For example, in April 2012, the Ministry replaced the *BC Risk Assessment Model* (1996), the *Presumption in Favour of Collaborative Practice & Decision Making* (2008), and the *Child Family Service Standards* (2004), with nine new *Child Protection Response Policies*. The subsequent simplification of these policies involved more than 25 changes.

The Extended Family Program was introduced in 2010 only to be extensively modified in 2013. In addition, adoption of standard decision making tools (SDM) and ICM, together with the increased emphasis on Quality Assurance, created a level of administrative complexity that seriously detracted from staff's ability to focus on child protection responsibilities.

Also the government initiative concerning domestic violence was introduced top-down amid much fanfare and extensive training.

These are important and worthwhile policy initiatives but heap more change on a Ministry not built for it and suffering from change overload.

Consider the following summary of important policy and practice changes since 2009 (red lines indicate major policy adjustments):



Looking Ahead

MCFD has volumes of policy in all program areas, and hundreds of pages that describe Standards, Policy, Procedures, Practice Guidelines and Memorandums. I can only hazard to guess that new social workers might find themselves absolutely overwhelmed by the sheer weight of the policy manual.

Many of the standards reflect good practice and common sense but I question the level of detailed description that occurs with every standard. For example, one small program – the Extended Family Program I mentioned above – has 13 standards on its own, and the policy description alone is 18 pages long. I can’t help but think this is unnecessary.

Standards and policies will never diminish the importance of good clinical practice and sound clinical judgment. Some staff I met with expressed concern that the standards are too prescriptive and do not allow enough room to exercise their clinical judgment. Overwhelmingly, staff talked about the fact that they do not have time to meet all the standards all the time.

I believe that practice, policy and standards need to be simplified and streamlined and further that the Ministry needs to build on evidence-based practice.

When processes like LEAN – a management efficiency tool involving front end staff in building solutions, with partial success and buy-in to date – are put in place, the front line staff joins in. They know most common sense solutions come from people already doing the work. But some of these processes take considerable time commitments, and when the front line is away, and no replacements available, then cases are picked up by those left in the offices doubling up caseloads, or having team leaders take on cases.

However, the move afoot in the Ministry to modernize business practices is a very good and necessary step. It is a Ministry where business practices need to be brought in to this century. I applaud this but changes must be built into the longer range vision and fully explained to field staff to get their buy-in and commitment.

I also believe that most of the work required to streamline standards and policies could be steered and reviewed in short day meetings with frontline workers and then turned over to long-service retired former staff for short term assignments. They are passionate, work for reasonable rates, and do not want long commitments or jobs. But they will give back because they are believers.

The plan should also prioritize any new practice programs and ensure that adequate resources are in place to deliver the program before any implementation of policy occurs in the field. Detailed implementation plans must form part of any approach and be grounded in the practical rather than the aspirational. Implementation planning works best when those staff directly affected are partners in developing the plan. A fixed schedule as part of an implementation plan for policy development should be considered.

4.3 Staffing Levels and Models

I now turn to a consideration of how all of these structural and policy changes were put into place on the ground. With what resources has the Ministry attempted to put all of this theory into practice?

4.3.1 Staffing Model

Currently, MCFD's Child Safety, Family Support and Children-in-Care services are delivered by front line social work staff in 182 local community offices across the province. Team Leaders provide clinical supervision and support to social work staff, while Community Services Managers provide supervision to Team Leaders and report to the Executive Director of Service in each of MCFD's 13 Service Delivery Areas.

Front line social workers, Team Leaders and Regional management staff express consistent concerns about their challenges:

- Their inability to meet standards because they have too much work;
- The lack of coverage for holidays, sick leaves, vacancies, and maternity leaves, leaving caseloads vacant;
- Increasing complexity of cases;
- Inadequate training both externally and internally;
- Inability to attract experienced social workers to front line positions leading to consistent understaffing, particularly in the rural areas; and
- A widespread and significant change fatigue.

On October 15, 2015 the Representative released a useful report entitled *The Thin Front Line*, and her review findings are consistent with the concerns expressed by staff.

Several individuals also raised the issue of compensation for front line social workers. It is becoming increasingly difficult to recruit and retain experienced social worker staff.

Maximum hourly rates for delegated child protection workers appear to be about 11 per cent below the Canadian maximum salary average shown in the table below.

Comparison of BC hourly rates to Canadian hourly rates

Classification	Canada Average Minimum	Canada Average Maximum	BC Minimum	BC Maximum	% Difference Minimum	% Difference Maximum
Entry level SW	\$31.64	\$40.92	\$31.94	\$36.50	1%	-11%
Senior SW	\$ 37.02	\$ 45.61	\$ 36.03	\$ 41.22	-3%	-10%

Is the fact that our workers are paid less than the Canadian average important? It could be argued that this is due to a difference in labour markets across Canada. But it is also the case that child protection workers are paid less than those working in other areas within BC. The proof of this is that these workers are regularly poached for higher wages in health, education, WorkSafe BC. I know that people do this job for intrinsic reasons, but in our society pay is the way good employers recognize good work. And there is no doubt in my mind that this is one of the most difficult jobs in all of government.

Looking Ahead

In the future, we must accept and act on a simple principle: child protection is one of the most difficult jobs in government and it should be recognized and rewarded with higher compensation. Higher compensation should apply only to the position of child protection worker. I am not advocating that it be applied to non-child protection social worker jobs.

There are options to bring about this change. For example, it could be accomplished through pay increases, special circumstances add-ons to existing pay (akin to the concept of danger pay), or a combination of both. Benefits also need to be increased in areas that will allow staff to deal with workplace issues such as stress and trauma. These should be preventive in nature, to build in opportunities to mitigate the short-term illness and long-term disability programs that are currently being used. For example, better use of benefits such as more accessible leave/transfer policies, sabbaticals, and educational opportunities should be considered and implemented.

In addition, a significant problem exists related to recruitment, retention and turnover of staff in rural areas. As with other professions, it is difficult to hire and retain staff in the North and more rural areas of the province. Additional money for child protection social work salaries will help, but so would signing bonuses, retention bonuses and provisions to allow for staff to "fly out" during the year. It may also make sense to create a planned rotation of staff (e.g. in for two to three years, out to a different position).

It has come to my attention that the Toronto Children's Aid Society was recently recognized as one of Canada's Top 100 employers and has introduced many measures to ensure it is an employer of choice. As an organization with a similar mission and mandate to MCFD, it provides a valuable example of how to deal with the staffing and morale problems that are common in such a high stress work environment.

This item should see an immediate injection of funding in this fiscal year and improvements should follow in the next fiscal year to deal with the needs of rural staffing. MCFD should aim to at least match the benefits provided by other employers who face similar problems.

4.3.2 Equity Funding Model

Finally, a word about what is called an equity funding model for staffing. This is an interesting concept (although confusing as the Ministry also has an equity model for program funding allocation) and I am sure is quite foreign to elected officials other than as an idea to force discipline on ministries from the centre. In my view it is more correctly described as a staffing rationalization model.

I have significant reservations about this Treasury Board staff-imposed model, put forward with the best intentions of gaining efficiency. What it does is balance staffing through a formula, to ensure that all areas have equal coverage. But in doing so, it does not consider the effectiveness of program outcomes. In application it takes resources from an area like Kelowna, which has good outcomes, and transfers them to areas that are understaffed and have poorer outcomes.

This balancing act is a race to mediocrity. Rather than holding up examples or regions that are producing the best outcomes in terms of client outcomes, and saying this is the level of outcomes, and perhaps staffing we all have to strive towards, this concept simply spreads the misery and brings everyone down to a lower level. This is simply not good public policy.

I understand this is part of the give and take between staff at the centre and in the Ministry when it comes to setting budgets. It often results in the efficiency-focused ideas of staff at the centre winning out over line staff who are obligated to worry about the effectiveness of programs. But occasionally someone needs to blow the whistle on the harmful impacts that result. Consider it blown. A staffing model must be built that rewards success and does not punish it.

Looking Ahead

Last fiscal year, MCFD presented a staffing business plan (included in their 2015-16 estimates) to Treasury Board that recommended 100 new positions. Treasury Board accepted this plan, and the Ministry was also promised 100 more FTE's in budget year 2016-17.

Like the Representative in her report *Thin Front Line*, I am not completely satisfied with the formulas that were utilized to generate the numbers. I prefer the method and formula used in 1997, which allocated time commitments for staff by function and translated that to work load. I think the current approach married to the one used in 1997 that measures an effective work load per day, an effective case load to manage, and coverage for things like vacation and the Short Term Illness and Injury Program (STIIP) would be both more effective and more likely to win the trust of the staff.

The BCGEU's analysis suggests that 300 FTE's are required at the front line, not 200, and I expect they are closer to the correct number than the Ministry. But guessing without data is a mug's game, therefore I think MCFD should re-calculate the numbers with a new formula and present it again into the budget system for the 2017/18 fiscal year. The idea is not to continually increase staff, but to right size the Ministry, with further reviews at fixed times.

4.3.3 The Office of the Provincial Director of Child Welfare

As I noted earlier, the position of Provincial Director of Child Welfare has been notably unstable since MCFD came into being. It has been, over the last 20 years, the position with the highest stress and lowest job security across government. The incumbent – like all of her predecessors, I suspect – is awakened after midnight once or twice nearly every week to deal with emergencies in the field. The burn-out rate is extreme: if not felled by health concerns, a high profile case will likely bring about an early retirement. There is no doubt that significant structural changes need to be put in place to ensure the position and its office enjoys a greater sense of stability than has been the case over the last 20 years.

Confusion is further bred in the public's mind, and the media, about who actually *is* the Provincial Director of Child Welfare, and who has delegated authority from the Director, and to what degree. In Justice Walker's decision in the J.P. case, the title "Director" is used 1,328 times. There is only one Provincial Director, and for the period of time between July 1, 2008 and March 31, 2011 – a time that mirrors the J.P. case – the position of Provincial Director was vacant. There were (and are) designated directors in the field during the time in question, but this lack of clarity is endemic, and transparency is the best form of sunshine.

Looking Ahead

It is my view that, in the future, the *position* of Provincial Director of Child Welfare should be at the level of an Associate Deputy Minister. This is because the skills required in a Director of Child Welfare are not completely transferable to the more traditional needs of managing a complex line in government. Five years would be a realistic tenure for the position. After three years, the Director should be given a three to six month sabbatical, recognizing that respite from the incredibly high stress levels is necessary for the health and welfare of the person filling that role.

Within the office of the Director, a Deputy Director holding the rank of Assistant Deputy Minister should focus on Quality Assurance, audit and complaints as well as the assessment of the Ministry's programs and training.

In addition, an Assistant Deputy Minister in charge of Aboriginal Programs should be appointed. The position should report to the Director, and every effort should be made to recruit a qualified (in the broadest terms) indigenous person for this job.

Finally, to avoid the confusion in the public mind about who is the Director, legislation should be considered to clarify which positions have what authorities.

4.4 Program funding

When government steps in to act as a child's guardian and protector, it also takes on a financial burden associated with its decision. When a child is in the care of loving parents, the parents must make decisions that require financial trade-offs. This does not change when government accepts the role of guardian – governing is about making choices, and governments must also be held accountable for the choices they make.

When government assumes the role of guardian and becomes the surrogate parent, it also has an obligation to act responsibly within its means, just like we expect the real parents to behave. Having assumed the role of supervisor or surrogate parent, government's responsibility is to provide the resources that allow its workers to do their work.

The first thing that is apparent from considering the Ministry's financial history as presented in the Estimates (see below) shifting programs and organizational changes have made it very difficult to trace the actual changes to the child protection portfolio. What is clear however is that any additional funding associated with the confusing structural changes over time is unlikely to have been optimally applied.

Ministry Operations Vote	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11
Child and Family Development	568,998	643,234	709,581	792,499	746,757	747,313
Early Childhood Development, Child Care and Supports to Children with Special Needs	419,221	535,332	421,865	505,012	510,507	520,932
Provincial Services	53,717	59,120	62,108	63,213	51,909	50,442
Executive and Support Services	16,648	22,570	25,961	21,418	15,015	15,006
Total Ministry Operations	1,058,584	1,260,256	1,219,515	1,382.14	1,324,188	1,333,693
<i>FTEs</i>	3,952	4,067	4,286	4,332	4,128	4,117

Ministry Operations Vote	2011/12	2012/13	2013/14	2014/15	2015/16
Early Childhood Development and Child Care Services	266,486	258,042	256,021	267,611	301,507
Services for Children/Youth with Special Needs	279,970	286,596	301,428	284,294	285,460
Mental Health Services	79,111	78,569	78,707	78,831	80,141
Child Safety, Family Support and Children in Care Services	498,706	498,932	498,120	499,554	501,969
Adoption Services	25,538	26,522	26,543	26,563	27,728
Youth Justice Services	48,390	46,390	46,127	46,200	44,718
Service Delivery Support	117,692	119,888	119,166	117,528	118,429
Executive and Support Services	14,798	18,128	18,704	18,625	18,975
Total Ministry Operations	1,330,691	1,333,067	1,344,816	1,339,206	1,378,927
<i>FTEs</i>	4,203	4,152	3,995	3,954	4,117

While graphs show that budget has remained at best stable, the Representative has done an analysis that shows an actual decrease of \$100 million from 2008/09 to 2013/14 and it is obvious from the table above that there are significant challenges. The budget has not kept up with salary increases and inflation. However, to determine a precise figure using restated Estimates is an impossible task.

One stark contrast is provided by the Ministry of Health. The Representative, among others, has reported on the difference of levels of funding between what Health has received as annual percentage lifts, and what MCFD has received, and the gap this creates over time. Health's budget is protected because both of BC's political parties know this is essential for electoral success. However, when the protection of Health's budget is combined with commitments to balance the budget and hold or lower taxes, there is simply not enough money for government to spend on much else. "Do more with less" has been a mantra of all governments in BC back to the early eighties.

When economic growth stagnates and tax increases are avoided because they are not politically popular, we end up with frozen budgets that do not even cover inflationary impacts. As we have seen in the past, all Ministries respond to the pressures in the same way: they do not cut programs, they just cut them back. Like cutting slices off of a salami.

I also think it unlikely – if not impossible – that one-time budget increases such as the \$4 million that was provided for the Ministry to shift to its Family Development Response approach, or the funding for 200 FTEs that was provided in 2006/07, have been allocated appropriately and effectively, given the absence of well-articulated goals.

Finally, I find it particularly concerning that, over the past four years, the *proportion* of MCFD's budget that is dedicated to child protection has actually decreased in real terms, leaving alone the impacts of inflation:

	Estimates 2011/12		Estimates 2015/16	
	\$million	% of total	\$million	% of total
Early Childhood Development and Child Care Services	266,486	0.200	301,507	0.219
Services for Children and Youth with Special Needs	279,970	0.210	285,460	0.207
Child and Youth Mental Health Services	79,111	0.059	80,141	0.058
Child Safety, Family Support and Children in Care Services	498,706	0.375	501,969	0.364
Adoption Services	25,538	0.019	27,728	0.020
Youth Justice Services	48,390	0.036	44,718	0.032
Service Delivery Support Services	117,692	0.088	118,429	0.100
Executive and support services	14,798	0.011	18,975	0.014
TOTAL	1,330,691		1,378,927	

I recognize that some of this amounts to robbing staffing Peter to pay program Paul, but what is inescapable is that the system is short on both staff and program resources.

Looking Ahead

It must be realized that these programs are what families utilize and benefit from, even if reluctantly, to prevent their children being removed. In a perfect world no child would be removed, and families would be kept together using other program areas of the Ministry. It is not like there is child protection, and the rest is fluff. The other programs are what support families and get kids safely to adulthood, and when combined with healthy community agencies create an environment where kids can be safe.

Over the years, with cuts or staff hiring freezes (although I recognize that child protection functions were exempt from the last hiring freeze), the programs remain, but the budgets are slowly cut back. The amounts needed to provide services are not sufficient to meet needs, even with the introduction of new and modern business practices, of which I approve, to gain savings through efficiencies. Although you can't run government like a business, you can run it in a business-like way. And all parents know what happens when layoffs occur, or jobs are lost. Important family needs are not met or cut back. Government acting as a parent is no different.

But when financial times improve, the place to start for government, like a parent, is spending some of the new found money on the kids and their welfare.

What is the right budget number required to restore funding levels? I wish I could calculate that. There have been so many programs moving in and out of the Ministry, for example CLBC and those mentioned above. The estimates are always restated each year when actual expenditures are recorded, and this is never done consistently over time. To be accurate it will require much greater analysis than I can provide. However, the fact I know is that spending has fallen behind inflation and has not accounted for salary increases. I will supply advice in this regard later.

4.5 Quality Assurance and Oversight

One of the key issues at the heart of the case that gave rise to this review is the question of Quality Assurance. I have a number of observations on this front. It is an important matter and getting this right is fundamental to the ability of MCFD to provide its child protection services to the highest degree of professionalism. Businesses, manufacturers and public services have three key operating functions: get the job done, do it right, and plan how to do it better in the future. This is particularly true for child welfare services.

No effective system of services can operate without an effective internal set of checks and balances and a strong grasp of its future direction. Quality Assurance is what we call this task of past, present and future vigilance.

Unfortunately Quality Assurance is often thought of as code for internal discipline or negative auditing of work. In reality, the concept of a Quality Assurance regime is actually about a culture that embraces the idea of critical analysis and embeds it in every facet of the organization. Make no mistake, this is very hard to achieve and yet, paradoxically, it will yield improved outcomes and greater satisfaction for staff.

The current functions of MCFD's Quality Assurance system are:

- Practice audits: measure compliance to policy and standards audits;
- Complaints: by children, youth and families are received and reviewed;
- Administrative Reviews: a specific review process available under the complaints policy;
- Reportable Circumstances: staff in local offices are required to report to the provincial director's office every serious incident, death or critical injury sustained by children in care; These reports are also required for children out of care who have received services within the past 12 months under the *CFCS Act*; and
- Case Reviews: the Provincial Director decides when a case file review or a comprehensive case review is required to determine if the Ministry has adequately met its mandate, standards, and policy.

The Ministry has a good data warehouse of information. It needs more aggressive analysis, but one apparent trend that jumps out for me is that service delivery areas have significantly different outcomes, even when socio-economic and regional practice differences are factored in.

As impressive as the data are in volume, they do not resonate in the field. Front line social workers have not grasped, since it hasn't been explained to them, how all this information can lead to good practice, and better outcomes.

An overarching problem is that these are all forensic measures; they look at events after they have happened. They inform future action, but they do not provide early warning or alert senior managers to field events until after the fact. The Ministry currently has no systematic way to flag highly problematic or complex cases for local managers other than the reportable circumstances policy. While reportable circumstances often do trigger a closer look at complex cases that need the attention of local managers, it is always after a serious incident has occurred.

Nor does the Ministry appear to have a daily report about critical incidents, investigations and matters that have arisen: items considered 'reportable' do not extend to the day-to-day business. Without an active handle on the workflow in any given area or office, Ministry managers are operating on a limited information basis.

At an organizational level, it is vital that the Ministry have a sense of how well it is performing the vital tasks entrusted to it. One of the challenges for MCFD and most other child welfare organizations is that the results of case reviews and other Quality Assurance functions are not commonly shared amongst the staff. The valuable learning and the reasons for proceeding with changes afterward – sometimes with discipline – are opaque to those staff not directly involved. This is not healthy as it breeds both suspicion of management's intentions and fear of the threat of an after-the-fact expectation of perfection.

Openness coupled with a strong sense of personal and corporate accountability are approaches that can help dispel some of the apprehensions about case review. At all management levels information from the operational and performance management Quality Assurance activities should be the key engine for decision-making. Budget submissions, allocations and re-allocations should take into account issues raised and accommodated as required to address deficiencies. As a demonstration of commitment to an overall Quality Assurance approach, a Ministry dashboard might be created to show key performance indicators, results and status so that MCFD staff always has access to this data.

Finally, it is important to say that an improved Quality Assurance regime is not a short-term solution, nor should it be a temporary initiative. Quality Assurance must be a permanent, trained, well-staffed, fully costed process. Ideally, it has at its core a strong central administration and robust regional partnerships. In the past, Quality Assurance functions have been organized, reorganized and organized out of business such that there really wasn't an effective operation at all. This has to stop. Quality Assurance has to be a permanent executive level responsibility with a strong public face.

Looking Ahead

The Ministry is already well on its way to fully integrating a Quality Assurance program - it is stable and growing, with no significant recruitment or turnover problems. The challenge is the huge amount of work that still needs to be done, and the scant resources that are available to complete the job. Quality Assurance staffing should be increased to ensure that, within 24 months, the Ministry is able to take over the functions that currently reside with the Representative. The strategic plan should take into consideration the need for sufficient staff.

Just as importantly, MCFD should expand its view of Quality Assurance and the required resource base to reflect a robust Continuous Quality Improvement system for both corporate practice as well as individual professional practice, such that all staff have a best practice reference. Such definition should reflect professional standards, corporate standards and as well the skills attributes and values that characterize best practice.

Taken together, this represents a shift from forensic planning – that is, Quality Assurance based on responding to hundreds of recommendations in the last ten years – to a culture where future improvement is informed, anticipatory and directional.

4.6 Training and Development

Currently in MCFD, the Strategic Human Resources division is responsible for all training in the Ministry, with the exception of some supervisory training done by the BC Public Service Agency (PSA). What it has to offer is, in my view, insufficient and has been generally decreasing over time. From 2007 to 2009, actual expenditures on training averaged about \$5.3 million per year; since 2013 the average has been about \$2.2 million per year.

Year	Learning & Development Actuals (Program Costs including employee travel)
2007	\$5,431,838
2008	\$5,463,613
2009	\$5,061,763
2010	\$2,865,312
2011	\$3,629,683
2012	\$3,190,832
2013	\$2,233,134
2014	\$2,310,074
2015	\$2,210,166

This does not allow MCFD to fully prepare new front line workers for their work in the field, or to keep existing workers engaged and fully trained in new and evolving ways to practice. Leaders in the Ministry face a similar dearth of training and development opportunities.

In British Columbia, child welfare is not a dedicated program stream at any university (although some Bachelor of Social Work (BSW) programs offer specialist classes), and graduates – even where they have taken specialized child welfare courses – are not prepared for child protection work when they come out of school. A newly hired social worker receives three weeks training when they start the job and that is it. Contrast this to a new officer in the Vancouver Police Department, who receives an initial three months of training, and three additional months later the same year that they are hired. Yet both the child protection social worker and the police officer face similar issues and must apply similar skills when newly employed.

University social work programs tend to be disproportionately theoretical and do not currently do enough at the undergraduate level to either address child protection content or to equip graduates with the practical skill sets that would be helpful to them in making a successful transition to the demanding realities of frontline child protection work.

Newly hired social workers receive a total of three weeks of classroom training at the Justice Institute of BC. Three weeks to become fully trained in a highly sensitive area, requiring similar skills as a police officer who is called in to deal with a domestic dispute. This is the culmination of a long-term whittling of the Ministry's provision of training. Training in MCFD has gone from the post-Gove era, when social workers were sponsored to get their BSWs and attended university full time, to a five month training program for new social worker hires, to the current three week program.

Team Leaders receive two days of mandatory face-to-face training on Clinical Supervision, along with a "Practice Supervision Certification" Program that is also available to them. This program is delivered online and includes Clinical Supervision Competencies, a Certification process and a standardized Learning and Development Plan for ongoing maintenance of certification status. Team Leaders have reported however that they struggle with finding the time to participate even in this limited training, given the demands of the day-to-day job.

The PSA does offer a number of supervisory courses on the more technical aspects of government for all line supervisors and line managers. Topics include labour relations and budgeting fundamentals. In addition, Strategic HR has an established Learning and Development Committee that includes representation from all parts of the Ministry. This committee provides advice regarding MCFD's training model and establishes training priorities.

Given the complexity of the work and constantly evolving best practice this level of training is meagre. The training, such as it is, is geared to new hires both in the social work and team leader ranks and does not appear to address the ongoing learning and development needs of staff.

Finally, there is no established and ongoing relationship between the Quality Assurance activities in MCFD and its training and development opportunities. If MCFD is to become an organization that values continual learning and professional development for staff then training needs to be a significant piece of a Continuous Quality Improvement plan.

Looking Ahead

Efforts with respect to training, research and analysis should be focused on creating a Ministry that learns from its experiences and mistakes in a lifelong cycle of Quality Assurance and Continuous Quality Improvement. This should apply to entrance-level and veteran front-line staff, supervisor and team leader skills, and management training that spreads throughout the organization.

Areas of focus should include leadership and decision making, liability, risk analysis, and ideas around evidence-based decision making and narrative busting (see section 4.6.1). Efforts should be aimed at moving the Ministry away from a structure and culture driven by blame and punishment, to one that is built around the acceptance of mistakes and an embrace of the learning that comes from them. This will take time, but can be accomplished and should be led from the floor of the Legislature, to the Cabinet, to communities and families.

In addition, the Deputy Minister of MCFD, together with the Provincial Director, should convene a focused discussion with university leaders regarding the extent to which existing programs are or are not developing graduates appropriately prepared to successfully undertake the demanding realities that are apparent in child protection work. With any proposed new degree program in social work, the Degree Quality Assurance Board should review curriculum content to assess the sufficiency of child protection components.

There are two other areas where consideration of enhanced training opportunities is recommended. First, the Justice Institute of British Columbia offers a very useful post-recruitment training and practicum program. The curriculum content of that program is generally excellent but should be modified to provide more substantial instruction with respect to the growing body of information and academic literature on the characteristics of failed investigations, which should be transferrable to inquiries conducted in the child protection environment.

The second area of enhanced training relates to the role of team leaders and managers at the regional office level of MCFD. These individuals manage highly complex, challenging work environments, where work load levels are consistently high, turnover rates are higher than what is generally found elsewhere within the public service, and the emotional strain on team members is a constant.

All too often, people who are very good at the substantive function they were hired for move into managerial and leadership roles without substantial investment in, or development of, their full leadership potential. Effective investment in leadership training, particularly for those operating in high stress functions, can yield substantial return on investment on both tangible and intangible levels. Expanding the scope of training for team leaders through strong practically-oriented leadership programs is highly recommended.

4.6.1 Investigative Practices

A specific area of failed investigation analysis that ought to be more substantially represented in the training curriculum is the theory of “confirmation bias” or “commitment to narrative.” This would address the implications of developing a premature but strongly held theory of about what has happened in an event now subject to investigation. If left unchecked, this narrative can result in the search for evidence that fits the theory, rather than a dispassionate examination of all available and relevant evidence.

An early impression can form a confirmation bias that hangs on long after the original workers have ended their involvement in the case. It is common sense that our own experiences form lenses through which we filter the world we see. This filter creates mindsets that are often quick to form, and resistant to change. This can be problematic as it can rule out evidence, or play down evidence that does not conform to the natural biases we have.

Based in part on the work of Dr. Kim Rossmo regarding the elements of investigative failures, the Vancouver Police Department has built an excellent, evidence-based investigation process to challenge this phenomenon; it has a position called a “contrarian” who is part of major case teams. It has learned, in part as a consequence of investigative cases that did not go well, that designating one member of an investigative team to ask the “what if” questions that can challenge and test the strength of prevailing theory regarding what has happened in a particular incident.

The contrarian in MCFD would be a senior position held by a highly trained and skilled person who has years of practical experience in detecting, analyzing and understanding nuances in a case which may become buried under the received wisdom of early practitioners on a case. The contrarian’s job would be to question all assumptions in a difficult case and to bring other potential explanations or considerations to light. As the Ministry gains experience with this concept it would follow what VPD did and consolidate the position of contrarian within front line teams.

Looking Ahead

It can be extremely damaging when social workers, police, even judges, get caught in one narrative and can't break out of it. To fully implement the evidenced-based, structured decision making models suggested in this report, the Ministry should create a “contrarian” role. I believe one contrarian position in each region by the end of next fiscal year would be appropriate. Depending on the operational plan for implementing the new evidence-based structured decision making system, it may be appropriate to plan for one or two additional contrarian positions in each region in the years to come.

4.6.2 Technology

After several years of work and development in another Ministry, the ICM system hit the ground in MCFD in April 2012. This was just months after a new well-seasoned public servant came on board as Deputy Minister, moved the Ministry back to a traditional delivery model, and started the slow process of recovery from the “Transformation” years.

Put simply, the new ICM bombed at MCFD. The back office functions chosen to be automated did not fit a Ministry where staff has to make professional practice decisions. It was inappropriate for a practice based service.

A complete re-think and re-build was required, and a new version of the system was delivered in November 2014. Although it is a start on building what one hopes will ultimately be an evidence-based child welfare system, the first iteration was not well received. But when you speak to old hands in government, you discover that the system ICM replaced – and some would like to see return to – also had similar growing pains when it was introduced years ago.

It is simply the nature of implementing new computer systems that any new system will have problems. It will take some serious fine tuning and adjustment, and some money, before the new system will be well received, and some would say workable.

Looking Ahead

Everyone in MCFD needs to see an ICM that is fine-tuned, made more user friendly, and requires less staff time for inputting information. However, in my view ICM is a step in the direction that the Ministry needs to continue on, in order to support evidence-based or structural decision making.

Over 20 years this practice has been developing in parts of Canada and in more than 20 states in the USA. Using evidence-based data pushed through actuarial tables of incidence, and moving towards predictive forecasting will, when developed, provide help to the field and a capability for oversight in senior management. But it will take time, as even Apple and Google struggle through introduction of new software.

Over the next few years it should be possible to build an evidence based system by planning and incrementally adding resources as milestones are met. Provided, of course, that there is buy-in by staff from the front line to the Deputy, accompanied by sufficient resources from the government, it is my view that ICM has a strong chance to be workable and well received.

In terms of systems, I think it is important that the Ministry develop a substantial “early warning” system for cases that might benefit from an earlier stage review by senior management, the Director of Child Welfare and, where appropriate, Legal Services Branch counsel. This would be a very useful addition to the policy environment and would serve to reduce the instances of leadership only becoming aware of a challenging case once something has gone terribly wrong.

Finally, I was particularly struck by the practical challenges MCFD’s social workers face when I was invited to spend time with staff in the “Car 86” program. This is a joint program with the

Vancouver Police Department, where social workers and police officers respond jointly to high-tension situations that requires the expertise of both organizations. While the two contribute equally in terms of skills, expertise and knowledge in their respective fields, the practical differences in terms of technological supports was striking.

The VPD officer was fully equipped with both protective and technological equipment that allowed them to call up relevant information about the address and people they were visiting in real time. They were able to therefore enter into the situation with full knowledge about what they faced, and the ability to muster the appropriate tools in advance. The MCFD social worker was armed only with a pen and a pad of paper and a cell phone. However security concerns do not allow for files or client information to be sent through hand-held technology. Surely we can do more to equip staff with tools that allow them to do their jobs efficiently, effectively and safely?

I think the Ministry should review the legislative restrictions around privacy that govern what can be disclosed outside the office, and provide the means for workers in the field meeting with families to input data through better hand held technology. Efforts should be made to reduce and eliminate the need to return to the office to spend time ticking electronic boxes that appear to be required for no purpose. One of the best ways of dealing with staff shortages is to train, empower and equip the existing and incoming staff with technological equipment that optimizes their skills rather than wastes their time.

Summary of Internal Factors

Six issues were just discussed: MCFD's management model, change and stability, staffing levels and models, program funding, quality assurance, and training and development. Each of these are singularly important topics, requiring specific and dedicated attention. I believe though, that while one-time funding increases to support these areas would be beneficial, dealing with each strand in this manner is not enough.

Imagine you are in your car and stuck in a snow bank. You look in the trunk and see six thin ropes; none of which is strong enough on its own to pull the car from the snow bank.

However, if you braid them together, each strand interwoven with the others you create a rope that has the strength required to attach to your car and your new found friend with a four wheel drive, and get pulled out of the snow bank.

This is analogous to what is needed here. In the past we have tended to put in one time resources towards specific problems, and if felt good to be doing something. This is a different approach and requires a future state where all of the strands are braided together into a coherent plan, with the clear purpose of pulling the Ministry back to a healthy state.

It is not as simple as it sounds. I have worked in the bush in BC, and I know that braiding steel cable is an art. So is making strategic plans, and I think the Ministry's expertise in this area needs to be supplemented with able advice from business people and content experts who would happily give their time to provide senior level advice.

B. External Factors

4.7 Child Protection's Legal Context

The legal context in child protection matters is often complex and, while some reforms have been implemented in an effort to reduce at least some of that complexity, there is a clear need for a greater effort in this regard.

The practical reality is that child protection cases often involve several different components, each of which may come under the jurisdiction of a different court. For example, there may be a divorce element together with a child custody application before a judge of the Supreme Court of British Columbia, and application before the Provincial Court to remove the children into the care of the Provincial Director. In all of these circumstances, each of the presiding judges has the capacity to make orders regarding custody of and/or access to the children. They often do just that.

This significant potential for overlapping, and often inconsistent, orders can be highly problematic. There are too many cases where an order made in one court, informed by evidence of clear concern for the safety of the children, may simply not be brought to the attention of another judge who is hearing a different aspect of the case. That judge may well then make an inconsistent order that could create conflict, confusion or ambiguity.

Part of the problem results from the jurisdictional divisions between different levels of court, where very little information is shared between the respective court registries regarding the content of orders. It might be fair to observe that the problem with the justice system in this context is that it doesn't fully operate like a system. On the contrary, highly relevant information tends to be compartmentalized in a manner that does not meet the best interests of children in need of protection.

Much needs to be done to improve information sharing so judges are a fully informed as possible regarding earlier orders that may be relevant to matters that they are now being asked to consider. Part of this could come through improvements to case management systems that would facilitate a greater degree of communication as between the registries of different levels of court.

Where possible, having single judges "seized" with all matters associated with a child protection matter would help with consolidating applications, enhancing the consistency of information before the Court and with improving judicial oversight of any breaches of court orders.

MCFD may also benefit from implementation of a more systemic approach to management of court proceedings with specific social workers designated to ensure greater coordination and information sharing.

It is also useful to briefly refer to the status of orders made pursuant to the authority of the *Child, Family and Community Service Act*. While the decision of the British Columbia Court of Appeal in the *W.N. v. C.G* case [2012 BCCA 149] established that the *Child, Family and Community Service Act* legislative scheme is, in effect, a "complete code" that supersedes pre-existing

orders with respect to the custody of, and access to children, this does not mean that earlier orders become irrelevant. Where applicable, every effort should be made to ensure knowledge regarding all prior orders is before the judge responsible for hearing any subsequent applications.

Looking Ahead

Particular attention should be applied to the development of information sharing systems that will assist in increasing the extent to which judges, and others, can be more fully informed regarding the content and implications of orders made in related proceedings. Recommendations presented at the recent Fifth BC Justice Summit should be acted upon.

4.7.1 Contract counsel

The dynamic associated with the conduct of legal proceedings on behalf of the Director in child protection matters is an interesting one given that almost all such cases are assigned to contract counsel. Contracts are for up to six years and then often “rolled over” so that, in many circumstances, the same practitioners have responsibility for the conduct of this work for many years. This consistency carries with it an important value in that it promotes the development of continuity, localized expertise and the potential for strong connections between “Director’s Counsel” and field staff involved in child protection work through MCFD’s regional operations.

However – and not surprisingly – the localized/regional organization of contract counsel inevitably tends to consolidate communications at the local level between local Director’s Counsel and regional MCFD staff. That approach has limited the opportunity for information sharing between regions and with senior MCFD administration regarding significant cases, emerging trends and other “lessons learned” in the litigation context. While there have been some initiatives recently to capture a greater amount of this information, much more could be done in this regard.

At present, central oversight of case management tends to reside with lawyers of the Legal Services Branch (LSB) of the Ministry of Justice. The LSB lawyers assigned to MCFD deal with contract administration, advice to the Ministry and, where applicable, the provision of advice to contract counsel regarding the conduct of specific cases. Those requests for advice often revolve around emerging cases that have become contentious or controversial.

Contract arrangements between the Legal Services Branch and counsel retained to perform child protection work contain accountability mechanisms that require counsel to report in, or to seek advice from, LSB lawyers if matters before a court give rise to questions of statutory interpretation, to applications under the *Canadian Charter of Rights and Freedoms*, or to other constitutional questions.

It also appears that regional contract counsel carry out their roles and responsibilities often with very little opportunity for engagement with MCFD’s senior administration regarding the policy directions, objectives and priorities of the Ministry. The overall number of contract counsel

significantly involved in conducting child protection work is really quite modest, approximately 40 law firms involving about 70 lawyers.

Looking Ahead

The obligation to seek advice or, at minimum, to notify Legal Services Branch counsel and, through them, MCFD senior administration, of any complex, potentially problematic or controversial litigation is not currently as robust as it ought to be. Given the increasing complexity and the volume of such cases, this is an area that could benefit from further attention and the Provincial Director of Child Welfare should be more actively engaged in oversight than what is presently the case.

From my perspective there is a pressing need for interaction between the senior MCFD administration and Director's Counsel at the regional level. Today the Ministry pays the bill but has minimal input.

At minimum an annual opportunity for direct engagement among the Deputy Minister, the Provincial Director, senior regional and headquarters staff at MCFD, LSB Counsel and regional contract counsel to facilitate a greater degree of information sharing and policy dialogue than what has been achievable in the conventional model.

4.8 External oversight

All government ministries are subject to oversight, often by Officers of the Legislature like the Ombudsman, the Auditor General and the Freedom of Information and Privacy Commissioner. Occasionally a ministry will receive recommendations from another legislated body like the Coroner. MCFD is unique. Since its inception in 1996 it has had constant and specific oversight from the Children's Commissioner, the Child and Youth Advocate, the Child and Youth Officer and, based on the recommendations in the Hughes report, the current Representative for Children and Youth.

For the last nine years MCFD has been the *only* ministry in government that has a dedicated oversight mechanism that reports to an all-party Committee of the Legislature: the Representative. Hughes never believed this would be a healthy or appropriate situation in the long term.

The efforts of the Representative, including her focus on the failure to implement the full Hughes recommendations, have been significant but only partially successful. Communications between the Representative's office and MCFD's Deputy Minister's office have broken down completely at times.

During the period between the summer of 2008 and the spring of 2011, MCFD and the Representative struggled over competing visions, one of which was focused on implementation of the *Hughes Report* vision for the Ministry, one which was pursuing the new "Transformation" already described, and another over Aboriginal authorities. After a protracted battle for access to documents, the two most important officials charged with providing oversight to the child

protection system in BC did not speak for more than 18 months. This is not laid solely at the feet of either the Representative or the Deputy Minister of the day.

Sadly, the relationship between the Representative and the Ministry has become strained. Persistent tension permeates everything that involves the two organizations that, at times, compromises their respective capacities to elevate the quality of service to which they are both committed.

There does appear to be light breaking through the clouds. Recently, the Minister and the Representative have announced a joint review of the policy regarding children in care who are placed in hotels. I also understand that they are working together on initiatives regarding adoption. These are very important steps forward and speak to a sense of collaboration, which is not only what Ted Hughes recommended as the best approach between the two, but is also what makes sense. I also understand that the Children's Forum will be reconstituted and this is also a good step forward.

The Representative has published 29 MCFD related reports over the last nine years. These have contained 154 recommendations, 129 of which were directed at the Ministry. The recommendations are generally broad, and when examined more closely, disclose something more in the nature of 572 actionable recommendations. The Representative views these as details; the Ministry views them as recommendations. For implementation reasons I believe they are recommendations. It should also be noted that many of the reports before the Representative also had this characteristic, but when it comes to field implementation it is the detail that changes what is there now or adds another layer of policy.

The 572 recommendations are, most often, thoughtful ideas that are aimed at driving the Ministry forward and improving the work that it does. In the Representative's own words: "*the Representative is committed to making worthwhile and valuable recommendations to help improve the child-and-youth system in BC... However, the Representative does not have the authority to carry out these recommendations. That is up to Government.*"

The impact of the Representative is constant, her office has been dedicated and uncompromising in its determination to provide oversight, and the Representative herself has been insistent in her demands. About 70 per cent of the time, MCFD does implement the recommendations of the Representative, and most often without any additional resources. But the sheer volume and constant nature of these recommendations is overwhelming, especially when combined with recommendations from other reports and other agencies over the years. It would be challenging for a well-tuned ministry to keep up, let alone one with so many other pressures. Despite everyone's best intentions, the constant recommendations *have* become part of the bigger management problem.

Also, as the Representative notes, government is not effective at dealing with recommendations that require cross-government coordination - for example, to address child poverty. An additional challenge is that the Representative serves two roles: providing oversight to MCFD, and serving as an advocate. The advocacy role sometimes means that the Representative is

focused on rallying against the very people whom she has just charged with implementing her recommendations.

Looking Ahead

As the current Representative is in the ninth year of her mandate, I think it is timely for the Legislature to consider the issues that I think need to be addressed. I believe this should be handled in the way envisioned by the Hughes Report, in a spirit of collaboration. I will elaborate later on this issue.

Hughes said several things in this regard:

This may not be a permanent aspect of its mandate. As discussed below, it is unusual to have an external body overseeing the functioning of a government ministry. This is essential at this time, to restore public confidence in the child welfare system, but it may not always be necessary. I suggest that this area of responsibility be reviewed in five years' time: if conditions have changed substantially by then, the mandate of the office may be revised at that time to include only its advocacy functions.

It is very hard to argue that conditions have changed substantially. He goes on:

“Most government ministries are not subject to formal oversight by an external body and it may be that in the future, there will be no need of an independent office for children. The Ministry’s own performance measurement, quality assurance programs, and public reporting may in themselves be sufficient to assure British Columbians that vulnerable children and youth are being protected as they should be. It may not always be necessary to have an external body overseeing the functioning of the child welfare system, although at this time, the need for public confidence in the system demands it.”

In my view the situation at the end of 2015 is different than in April, 2006 in that real change is underway in the Ministry. Is it substantial enough to do away with the Representative’s office and its current functions? No it is not.

Can it be in a few years? Yes, I believe the development and further expansion of the Quality Assurance functions in the Ministry can be ready in about two years to take on the oversight function currently fulfilled by the Representative. I also believe that within about 18 months, the Ministry can have a fully operational public information system to provide transparent, trusted public information.

However, while that must be the goal there can be no fixed date, because I believe it is the Standing Committee, with the benefit of advice from the Representative and the Ministry, that must judge when the Ministry is ready to undertake these responsibilities. I believe that if the Ministry and the Representative work collaboratively on this project it is achievable. Perhaps in a year or so a few joint reports might test the capability, help with the collaboration, and assure the public of their efficacy.

4.8.1 A culture of blame

Child welfare is a unique function of the modern developed state. It requires that agents of the government oversee the care of children identified at risk. Child welfare workers are able to enter homes without warrant, remove children and seek court orders to have them permanently committed to government care. Of course, they are also able to offer support services, work with parents to improve their parenting skills, provide additional resources to children coping with mental health, addiction or developmental challenges and act as resources for parents struggling with the burden of parenting.

There is no doubt that the death of a child is a tragedy that bears close and exacting scrutiny. It is the case, though, that deaths and serious injuries to children known to MCFD occur rarely. Despite this, there is a natural concern by the public, media and the Opposition that each case gone wrong represents a failure on the part of the system. Sometimes, this leads to an avalanche of criticism and calls for change that, ironically, leads to even greater instability and loss of confidence in the work of the Ministry.

Despite our desire for improved services and repeated calls for less partisanship on the issues, there seems to be a great appetite for piling on and blaming both individual workers and the system at large for perceived and real failings.

This is not the case with almost any other area of public service that touches the interests of individuals. When something goes wrong, we do not see the same kind of intensely personal and negative attacks on the entire system. This is perhaps to be expected given the terribly tragic nature of the abuse and neglect suffered by children in these highly publicized cases and may reflect the Ministry's inability to reclaim some level of credibility that it is both a responsible and an accountable organization.

Looking Ahead

In addition to the other suggestions I have to address the culture of blame – for example, a rethinking of the management model, better and ongoing training, and a remodelling of the Ministry's Quality Assurance system – the Legislature could consider changes to the privacy restrictions that surround cases to permit more fulsome debate in the Legislature. Consideration should be given to allowing confidential background briefings to Opposition members on specific cases, and to have a Ministry spokesperson. I will expand on this in the following section.

4.9 Political trends and implications

I enter this section with trepidation. Politics, and the political realities of BC, are not the usual territory for a person whose career was in the public service, and one whose only political experience was as a failed candidate in the 1969 provincial election in Nanaimo, where I received fewer votes than I have relatives.

However, I feel there are some things that needs saying, about how politics in BC have come to impact the delivery of child welfare services.

Politically, we live in a polarized province. Our elections always offer us a clear choice, but it has been my experience that, once in power, both parties tend to govern in the centre except at the margins. Of course there are differences at the margins, and policies will swing one way or the other: one may create an ICBC, another might sell Mainland Gas from BC Hydro. But on the core issues like healthcare, they do the best they can with what they have.

Our legislature has always had a deserved reputation for the cut and thrust of debate, especially in Question Period. Unfortunately, this extends to child welfare, where both parties when in Opposition take the details of a specific tragic case and imply that this represents the entire Ministry. I believe the child welfare system will work better when it has moved away from specific case details being applied universally. Better for children and families, and better for the staff who try to deliver the services.

The recent tragedy in Tofino, where a whale watching boat capsized and killed six people, was tragic. The public wanted information, and as soon as possible. But we accept that we must wait until the Transportation Board carries out an investigation. Nobody says "heads must roll" and the captain, let alone the Minister of Transportation, should be fired.

Compare that to the recent tragedy of a young man who died after falling from the window of the hotel where he had been placed by a delegated Aboriginal child welfare agency. Once the news broke of this tragedy, the media was immediately filled with comments of "heads must roll".

Why? Both situations were tragic.

When it is not a child welfare case, there is a recognition that a fair hearing will be held. Accountabilities will be dealt with, but first the facts need to come out. Surely the same should apply to child welfare.

Looking Ahead

There are some things we can do about the impact the political process is having on the child welfare system, and still retain our BC tradition of hardy political debate around the issue.

I have mentioned above some ideas for MLA's to consider – for example, the legislature could consider changes to the privacy restrictions that surround cases. There is nothing more damaging for any Minister, in whatever party, to be unable to respond to questions when the reason is restrictive confidentiality legislation. The Opposition is left with embarrassing the Minister for not being forthright and arguing she or he should resign. Much of this based on news reports and anecdotal information. For me, this is reminiscent of calls for the resignation of Minister Priddy in this circumstance when I was her Deputy and when the Liberals were in opposition. I witnessed this again when the parties had switched places and the current Minister's resignation was demanded in the fall session. The pattern is predictable but not particularly productive.

The reports and media stories of tragic events that fuel Question Period demands for resignations are enjoyed much more in Opposition, whatever the party, than when they form government.

Consideration should be given to changing legislation to allow confidential background briefings to Opposition members on specific cases. Then the debates in the Legislature could gravitate to a higher level, and be based on facts.

Would this restrict the cut and thrust of question period debate? I think not. There is no more partisan legislature in the world than the Congress of the United States. Yet their House Rules and conventions permit confidential background briefings, which are now a regular feature on national security issues. This does not take away from the debate in the House or Senate, indeed it elevates it.

In the future, the Chair of the Standing Committee and a designated person from the Opposition should have the authority to request, within seven days of a high profile case becoming public, or at the initiation of the Minister, an opportunity for a confidential briefing which could include the Representative. Establishing the framework for a process of this kind may require a modest legislative change.

The expectation would be that the Minister and staff could disclose sensitive personal information about a victim, for example, that would help to explain what went wrong in the care plan and safety program for this child or youth, even if an investigation, for example, is not complete.

I encourage the members of the Legislative Committee to travel to Washington DC and observe their system of background briefings work in action, and report to the Legislature on how this process may be adapted to BC.

The second area that is the responsibility of the Legislature is the role of the Representative. I must comment that the province owes the current Representative a very large debt of gratitude for the inexhaustible energy and determination she has brought to the position.

As I argued above, I believe it is time to follow the advice Ted Hughes gave in this matter when he recognized how rare it was, and how unhealthy, to have a single Ministry under external oversight continuously and for long periods of time.

External oversight should end when the Ministry is capable of carrying out these functions, and the Representative's role should become one focused on advocacy.

Obviously, the Representative will continue to investigate cases and issues, and whomever is the new Representative would likewise continue. This is essential work. But as Ted Hughes recommended and this report endorses, the time will come when the Ministry itself picks up this work as well as provides a first rate public information service.

The Chair of the Select Standing Committee on Children and Youth reported on March 26, 2015 to the Legislature. Jane Thornwaite, MLA noted the committee was in receipt of a joint letter from the Deputy Minister and the Representative that described their shared view that the functions of the Representative not be changed until further review is carried out before April 1, 2017.

I believe this presents a perfect timetable for a solution to the temporary oversight that Ted Hughes recommended. The Ministry is not ready to take on these functions, but could be if April 1, 2017 is viewed as a target date to have in place an appropriate Quality Assurance program and public information system.

The person next selected to undertake the role of the Representative will have to bring a unique set of skills to bear on the job. The goal of the next Representative should be to advise and overview the development of the Quality Assurance and public information service in the Ministry. Legislation would be required.

I think we lose the battle against child welfare reform when we hear the story of a single case and are then consoled by the recommendations of a respected authority. The media lavishes attention on that, but it is too simplistic. Our hearts and our emotions overtake reason.

In the future it will be important to ensure the public is informed not only of the Ministry failures but also of its successes through a strong and effective public information program.

A step in this direction would be to have a Ministry spokesperson that can, over time, gain the trust of the public. This position would be a demonstration of a greater commitment to public transparency, and would be provided with the ability to communicate to the public within the scope of the privacy provisions of the legislation, as amended. Again, the Vancouver Police Department and the Integrated Homicide Investigation Team (IHIT) provide good models of how the public interest is better served through increased transparency.

I would add that the position should not be added to the responsibilities of the Provincial Director of Child Welfare and nor should it report directly to that position – this would focus its work too specifically on child welfare. Instead, I believe it should be this position which is the main focus for media inquiries and the provision of information to the public. In times of high profile cases, this position should be the government’s “face” for explaining the facts and the next steps.

Summary of External Factors

I have highlighted my observations in three areas: the legal context, external oversight, and political trends and implications.

Each of these are singularly important strands requiring attention. They are different from the internal factors I have discussed in that while there are clearly resource requirements, what is required first is a great deal of thought and discussion. As with the internal factors, I think that

all of these issues must be considered together, and that looking at each strand on its own is not enough.

One could argue, for example, that the legal issues could be addressed without reliance on or need for action with respect to the other factors. One could also argue that that it will take time to provide enough assurance so that the public will accept that the Ministry can stand alone without an oversight body; or that privacy issues are there for good reason and should be left alone; or that the politics in BC are what they are. Those would be strong arguments.

But I think in the future as we look at how best to serve our children, and especially those in need of services in this Ministry it behoves all of us to take a holistic approach to the solution.

To use my earlier analogy that we need to braid these strands into the rope or steel cable, I would argue that only through a collective effort can we build a system as safe as possible for our children. As I mentioned at the end of my introductory section, that leadership starts with the Members of the Legislature.

5.0 Where to From Here

In British Columbia, a person is considered to be a child until the age of 19. That means that there are 988 weeks of childhood, I think it is sometimes better to think about childhood in weeks rather than years as it forces us adults to ponder in manageable chunks how short a time childhood really is. When the system is backed up and decisions are not made about keeping a child in care or returning him or her to the parents, it is weeks that may pass by. In the life of a six-year old child, there have only been 312 weeks of life.

Imagine that a front line worker with a heavy caseload doesn't make a decision for six months, perhaps because the resources are not available. Another 24 weeks of the child's life have passed by. We often forget that children sense time differently than adults and our decisions, even though they might be technically correct, can needlessly impact their life.

I'm sorry to have to say that there is no magic wand to resolving the child protection issues in our communities. As we all know, the breadth of concerns that affect children is very large and the techniques for resolving those concerns can sometimes be elusive. Having assessed a child as needing supports and services, the plan (and sometimes the court) requires that the treatment be provided. Sometimes the required services are not available through the usual streams; it is usually neither practical nor affordable for all specialist services to be provided evenly across all communities. Just as in health care where specialist medical services may not be widely available, so it is in children's services. However, all of the elements I have already addressed must be present for the system to work effectively.

Child protection systems do not spring fully formed from governments. They need a community to embrace the notion of children's rights, an education system that is oriented toward nurturing their students, a health care system that promotes and protects their health, a justice system that treats them fairly, appropriate training for the professionals who will work in the field, and sufficient budgets to support long-term planning.

I have tried to understand the situation of the Ministry at the time of the J.P. case, and today. I have questioned its functional readiness to make decisions then and now.

Earlier in this report I remarked about how the hurly burly I described during the time period the case was in the system might have impacted the front line workers and their decisions. Obviously, until the case review is completed next spring I am in no position to comment and will not do so.

But I have arrived at what is normally the place in a report where recommendations flow. This presents a conundrum.

Do I join the parade of more than 1,000 passionately held recommendations that have flown at MCFD over the last few years? After being critical, would that not be hypocritical? And this is only part one of a two-part review.

So I considered using a different path which would consist of options that Cabinet might wish to consider:

Option 1 would propose retaining the status quo which is characterized by static or incrementally-reduced, or inflation level funding that is interrupted by haphazard infusions of one-time attention and resourcing, usually following the publication of a major report like the *Gove* or *Hughes Reports*.

If this option was selected, it is very likely that in five or ten years another independent reviewer will be called in. They may make similar observations, and put forward more recommendations about how to address MCFD's challenges. The Representative will be frustrated and nothing will have changed.

Option 2 would propose a one-time infusion of extra funding, a fairly typical approach after a difficult case. This approach has the principal benefit of defusing the issue politically by providing one year, one time funding.

If this was selected option it would provide government with breathing room to face the next crisis, and perhaps the next election, and turn to the thousand and one other problems every Cabinet faces weekly that always seem to require tax dollars.

Option 3 would propose a strategic four-year plan that would start immediately and would be carried out over the next four years. The plan would contain measurable milestones, outputs and outcomes, be approved by Treasury Board and Cabinet, and be publicly announced. The strategic plan would include implementation and a long term financing commitments.

Selecting this option would demonstrate the government's commitment to a systematic, planned attempt at addressing the Ministry's long standing problems.

I am convinced that variations of these and other options are available, but I believe that a structured plan that methodically deals with the disparate but related problems identified in this report would succeed. It is outlined below.

A Strategic Multi-Year Plan

There are eight components to this strategic plan I would advise you to consider:

1. Rethink the management model;
2. Strengthen staff resources;
3. Restore MCFD's programs;
4. Respect and support professional decision making and professional growth, including technological tools;
5. Streamline policy, and move practice towards evidence-based, structured delivery;
6. Fully implement Quality Assurance;
7. Provide appropriate and effective oversight; and
8. Put appropriate financial resources in place.

The sections that follow provide a summary of the major points that could be considered in each component; they summarize the detailed discussions that are outlined in the "Looking Ahead" portions of my observations, set out earlier in this report.

The Ministry will be required to review, update and adjust the plan after two years and should release the updated plan as part of its public information responsibilities.

Let me be clear: additional resources with phased-in budget increases are needed for the plan to work. And while I realize that future budget increases depend to some degree on the province's fiscal capacity, the funding suggested in the first year is minimally required to begin the process. But the decision by cabinet, before and after the next election, for long range financing of an approved implementation plan lies at the heart of this advice. Without this commitment we will return to option one.

I must also note that phased-in budget increases work better in the long term than putting money into Ministries that are not yet ready to spend the funding. If the strategy is to be successful, the plan must get a staff and budget increase this fiscal year in the direction advised, but the key is to receive staged increases over the next four years starting in 2016/17.

If we are to be successful in overcoming widespread scepticism, this approach will require senior staff to first involve field staff in the development of the plan, then present and convince staff throughout the Ministry that this is the direction we are going in and this is what we are going to accomplish. And this is what, when accompanied by the other elements and if driven forward by all staff, and supported by the communities they work in, and of course the Cabinet of the day, will turn the Ministry on its head.

The vehicle to accomplish this change will be buy-in of the entire Ministry into the multi-year plan which would look something like this:

- Year one (2016/17) will be consolidation, planning, buy-in with a start-up injection of staff and money;
- Year two (2017/18) will include: piloting an preliminary alert code model, staff training and specification of a computer supported alert system; strengthen Quality Assurance capacity, program delivery improvement;
- Year three (2018/19) will include: completion of an automated alert system, fully established training for post recruitment and leadership training; and
- Year four (2019/20) will include: a practice and policy review to be available to inform the public of progress, problems and future directions.

View this four year overview as a roadmap for general direction, not a blueprint. The detailed planning will adjust as out these directions are refined, but they are not, nor should they be, considered prescriptive recommendations. Internal experts need to make these plans and have them approved, and be held accountable for the outcomes.

5.1 Management Model

Key points to be considered are to:

- Cases will always flow from the “bottom up” – that is, from the front lines to senior leadership. But management must become involved early to complement and enhance rather than replace front line professional judgement and to manage, not just react to, cases;
- Develop a computer supported program that creates an alert code for serious cases as they enter the system from active, reported incidents, and integrate this information with Quality Assurance data. This will allow executive management to aid and commit to enhancement to the Ministry’s information systems that will support both the direct level of service and head office. This must be done incrementally, and by not increasing the computer time required by front line staff; and
- Shift the culture from one of blame to one of learning, respect and commitment to a common plan and delivery system; and every improvement must be measured by its success in freeing front line staff to spend more time with clients, and aids their evidence based decision making.

5.2 Staffing

The proposed plan should take into consideration staffing needs from a number of perspectives. Key factors include:

Front line and support staffing, fiscal year 2016/17

- Provide the 100 FTE's agreed to as part of last year’s staffing plan, with financial backing;

And, in addition:

- Introduce a regional “contrarian” function with one person in each region;
- Provide immediate pay raises and better benefits (importantly but not exclusively for rural workers) for child protection social workers; and
- Add FTE’s for Quality Assurance, training, development of early warning system, contrarians, and public information service.
- As hiring will not occur on April 1, the Ministry can manage these functions with the infusion of an additional 20 FTEs next year.

Front line staffing going forward

- Replace the equity funding model for hiring with staffing levels based on an assessment of function translated in terms of work load;
- Dedicate new staff through recalculation of requirements, presented in the 2017/18 budget cycle;
- Provide pay raises for child protection social workers, through discussions between the BCGEU and the PSA, framed by the principle that front line child protection is one of the most difficult jobs in government and must be paid accordingly. This will help reduce other employers poaching staff through more attractive higher wages; and
- Enhance and develop the regional “contrarian” function with a long range view to creating rotating contrarian responsibilities in each team.

Other essential actions to inform and support front line staff

- Classify the Director of Child Welfare position as Associate Deputy Minister, to be supported by:
 - Deputy Director (Assistant Deputy Minister level) for QA, audits and complaints;
 - Deputy Director (Assistant Deputy Minister level) for Aboriginal programs;
- Increase the Quality Assurance capacity by about 21 staff to ensure MCFD assumes the Representative’s Quality Assurance functions; and
- Increased transparency through the deployment of a Ministry spokesperson.

5.3 Program restoration

The plan should include consideration of:

- Increasing program funding to address, at minimum, inflationary and population growth pressures;
- Phase in and ramp up expenditures to ensure financial resources are married to operational plans and provided as milestones are achieved avoiding a onetime injection of funds; and
- Program enrichment to begin in 2016-17 fiscal year.

5.4 Professional decision making and professional growth

Efforts should focus on creating a Ministry that learns from its experiences and mistakes, through skills and management training that applies throughout the organization, from entrance-level and veteran front-line staff, to supervisor and team leaders, and to executive leadership. Recognizing that technology is the catch word for the tools we need to deploy to do the job more efficiently, and more importantly, effectively, these issues should tie together as a major part of the plan.

The plan should include the following considerations:

- Focus on leadership and decision making, liability, risk analysis, and ideas about evidence-based decision making and avoiding narrative confirmation bias;
- Any new degree program proposals should be designed to address child protection content and associated skills;
- Enhance post-recruitment training and practicum program;
- Develop a leadership training program, particularly for those operating in high stress functions;
- Invest in quality assurance training assurance and continuous quality improvement training, moving the Ministry from a culture of blame to one of learning;
- Train sufficiently before introduction of new policy, practice and technology to ensure consistency of application, including measuring the impact of the trainings success and re-training if required; and
- As staffing levels increase and technology improves over four years, front line workers will have more time for training, and more ability to take training away from the job site as back fills will be available.

To meet these objectives the Ministry requires a training, research and analysis budget of about \$20 million over the next four years, and an operating budget of around \$5 million a year thereafter.

Technology

- Continue to refine the Integrated Case Management System, focussing on becoming more user friendly and easier to input and therefore determine the narrative of a case;
- Introduction of an early warning system and alert codes particularly for cases that will benefit from an earlier stage management input and assistance; and
- Invest in the appropriate technology so that MCFD staff in the Car 86 program, in emergency support services, on all calls everywhere in the province workers are able to do their job with strong technological mobile support resulting in more field time with families and less computer time back in the office.

Legal considerations

- Better inform judges and others regarding the content and implications of orders made in related proceedings;
- Direct engagement among the Deputy Minister, the Provincial Director, senior regional and headquarters staff at MCFD, LSB Counsel and regional contract counsel; and
- Amend current legislation to enable privacy concerns to be protected but also provide for more case-specific public release of information. Also clarify the various jobs in the organizations, and the occupants' specific delegated authorities.

5.5 Policy and practice

With respect to professional policy and practice, the plan should take into consideration the following principles:

- Simplify and streamline policy and standards to ensure easy access by staff and clear integration of policies across the Ministry;
- Build on evidence-based practice;
- Prioritize any new practice, policy or programs and ensure that adequate resources are in place to deliver the program before implementation commences, recognizing there will always be exceptions that prove the rule; and
- Consider a fall announcement date for new policy, practice, programs or technology, gain feedback, check resources, and implement new changes the following spring on a fixed date schedule for the large majority of changes, bringing a sense of planned progress and stability.

5.6 Quality assurance

Changes to quality assurance should support pro-active planning to ensure improvement is informed, anticipatory and directional. Quality assurance also needs to embrace a larger perspective of Continuous Quality Improvement and a culture of learning.

I would advise that the plan includes the following elements:

- Fully implement recently identified changes to MCFD's internal Quality Assurance oversight system; and
- Implement a robust continuous improvement system, with the characteristics as set out in Appendix 4 of this report.

5.7 Oversight

Representative for Children and Youth

I have described in detail in the course of this report the challenges and issues that I think need to be addressed when the next Representative is appointed. These are some aspects that I believe the legislature should consider in this regard:

- New appointees should only serve one term;
- The term should be extended to six years to ensure enough time is provided to settle in, and become productive;
- MCFD should be given a period of time (perhaps two years) to put in place a sophisticated Quality Assurance, audit, and complaints process that includes feed back to the front line, and with appropriate training provided to ensure learning from findings of the Quality Assurance program;
- A sophisticated public reporting program should be in place within 18 months of the new fiscal year starting, fulfilling the two conditions in the Hughes Report to transfer the case review function back to the Ministry;
- The Ministry should rely on the advice of the Representative and others to implement appropriate Quality Assurance and information programs. Until MCFD is ready for the transfer, as recommended by the Standing Committee, the Representative should continue fulfilling the role of Quality Assurance reviewer; and
- During this transition period it will be business as usual in terms of advocacy and investigations/reports for the Representative's office.

Future oversight by the Legislature

Consideration should be given to the issue of privacy and how the rights of children and families can be dealt with, and how Opposition members could be given appropriate confidential briefings similar to how in the US Congress deals with issues of national security are shared. I believe this will enhance, not diminish, the lively and spontaneous debate that forms the heart of the Provincial Legislature.

Possible pre-conditions that might aid in this debate are:

1. An agreement not to further divulge sensitive personal information about an identifiable person(s);
2. An agreement that members of the Opposition are still free to criticize the government for its handling of a child protection matter(s);
3. Staff of the Select Committee could normally attend the briefings and report on them in a sensitive manner for purposes of annual reporting;
4. For the most sensitive cases, such a confidential briefing could be limited to the Chair and Deputy Chair of the Select Standing Committee;
5. The Select Committee could also decline such a briefing;

6. When a high profile case becomes public the Minister, the Chair of the Committee, the leading member of the Opposition, or the Representative could call for a briefing within seven days; and
7. These briefings would be, obviously, in camera, with press availability sessions following.

5.8 Financial implications

The plans should be built around the following key principles:

- Funding should be spread over four years, including the upcoming fiscal year;
- Additional funding for fiscal year 2016/17 should be targeted at about \$50 million;
- This funding should apply to staffing, quality assurance and training, as well as for a range of programs that assist families as part of the integrated service delivery system of the Ministry; and
- Fiscal years 2017/18, 2018/19, and 2019/20 should reflect the strategic plan. Annual funding will necessarily combine some variable expenditures. For example, staffing may be loaded into years one and two, and revisited in year four to "right size" staff, or new technology may be purchased, implemented and then evaluated in a following year prior to new expenditures, but a more regular program restoration will be required. Therefore, it is not possible to predict with any degree of accuracy, until the strategic plan is complete, what the financial implications will be in future years.

6.0 Final Thoughts

Not everything I have presented as my advice for the path forward will be achieved over the short term. Some of the items may not even get underway until year four of the proposed multi-year, multi-faceted strategic plan. Can't it be done faster? The lesson I learnt from when I was the founding Deputy Minister is NO. We need to recognize that twenty years later we have problems and they, as I believe my earlier mistake shows, require four years to align cultures and achieve successful outcomes.

Nor is it financially feasible to think the Ministry could or should manage these supports overnight, without a solid implementation plan and Treasury Board staff oversight on expenditures. Although I hasten to add that Treasury Board staff should resist the urge to extend its oversight to program and practice decisions.

This report is not the Magna Carta, but is the result of a considered review conducted by a team of highly seasoned policy and program experts (with collectively over 200 years of public service management experience), for over four months but on a part time basis. Experts in the Ministry and in other government departments will bring their own expertise to bear. Not everyone will agree with everything I say or advise. That is how it should be.

A legitimate question to ask as this report ends is if we follow the advice what can we expect in four years. What would success look like? Here are some of the qualities or results that I would expect to see:

- MCFD will have met all the milestones in the four year strategic plan and the government would have funded the financial plan;
- MCFD will be recognized as a leader in providing excellent child welfare services based on evidence-based systems in a collaborative effort between front line professionals who meet high practice standards, aided by helpful technology and managed by seasoned professionals through an interactive, integrated, incident evidence-based system;
- There will be more cooperative working arrangements between First Nations leaders, communities and Ministry staff would help to collaboratively provide culturally sensitive supports that avoid apprehensions and encourage home placements through joint decision making;
- MCFD will have clear objective performance and practice standards fully understood by all employees;
- MCFD will make public output goals and inform the public on their success in reaching them;
- MCFD will work within a culture based on learning and professional accountability rather than premature blame and finger pointing;
- MCFD will be a stand-alone Ministry with robust Quality Assurance and Continuous Quality Improvement systems subject to the same accountability mechanisms that apply to all other government entities;
- There will be a more rigorous and transparent public information system that enjoys a high level of public confidence; and
- Communities will pull together to provide the best child experience possible in our province.

Will there still be child abuse and deaths? While this plan will help ensure that we do everything that society and government can to prevent them, let's be honest and recognize that we will never be able to police every family and prevent abuse and, yes, even murder. Just as doctors can't heal all diseases or police prevent or solve all crimes. There is also a need for family and community support to make this plan work, and I sincerely hope it is forthcoming. We can make our kids safe, safer than they are now, but we will never be 100 per cent successful.

It will require a clear message and a long term commitment from Cabinet, indeed from both sides of the Legislature.

With respect,

Bob Plecas

Appendices

Appendix 1: Terms of Reference

Terms of Reference

Intent

This is a child protection practice and policy review in the matter J.P. and an investigation into whether systemic problems exist that can be improved through recommendations.

Objective

The objectives of this review are to:

1. Examine the child protection legislation, policy, standards and practice and actions taken in the J.P. case by ministry staff, supervisors and legal counsel, contracted to represent the Director, under the *Child, Family and Community Service Act* (CFCSA) and provide prospective recommendations regarding how any errors or omissions evident in the case can best be minimized or avoided in future child protection matters;
2. In the context of the J.P. case, particular focus will be given to when a child protection matter also involves private custody and access issues between parents, particularly when there are applications, proceedings, or orders involving both the provincial court and Supreme Court of British Columbia;
3. Examination of the ministry's legislation, policies, standards and practice to provide the appropriate degree of guidance with respect to child protection practice in cases involving custody and access disputes, including orders from the provincial court and Supreme Court of British Columbia and/or Acts; and
4. Provide any recommendations that may assist in improving the ministry's practice, policies and standards.

Scope

Recognizing this is not a public inquiry, nor an investigation of individuals' actions, or of fault finding, but rather a consideration of compliance with legislation, orders, policies and standards, and what improvements can be made to address systemic problems; this review will require interviews with government staff and other involved relevant people to support and inform the process. With a focus primarily on the J.P. case, the following is in scope:

Legislation, Policy and Standards:

1. Review the legislation, policies and standards that were in place during 2009 to 2012, and those that currently exist, with respect to child protection practice in cases involving custody and access disputes, and assess whether they were sufficient to provide the appropriate level of guidance and support to staff. This review includes how orders from the provincial court and Supreme Court of British Columbia and/or under the authority of other Acts may interact with Ministry legislation, policy, standards and practice.

Practice:

2. Review all records pertaining to J.P. up to 2012 that are necessary to achieve the objectives of this review including a report of a child welfare expert retained by the Ministry for the litigation, to determine whether the actions taken by the Director under the *CFCSA* were consistent with legislation, policy and standards.

3. Review the practice undertaken by ministry staff, supervisors, and legal counsel contracted to represent the Director under the *CFCSA* with respect to child protection matters that also involve private custody and access issues between parents, particularly when there are applications, proceedings, or orders involving the provincial court and Supreme Court of British Columbia.
4. The reviewers acknowledge that any records made available to them for the purpose of this review are confidential and provided to them only for the purpose of this review. Such records are subject to the provisions of sections 74 and 75 of the *CFCSA* and the *Freedom of Information and Privacy Act* to the extent that its provisions have not been superseded by the *CFCSA*. Although many internal records of relevance, including the expert report, have been tendered in evidence in court, the court file is subject to a sealing order and therefore the records are not accessible by members of the public.

Recommendations:

5. Based on the findings of this review, provide recommendations for improvement of the ministry's practice, policies and standards.

Approach

This review will be led by Bob Plecas. He will be joined by a research consultant associated with the Child Welfare League of Canada (CWLC), and other contract specialists, if required.

For the purposes of this review, Mr. Plecas has been designated as a Director pursuant to section 91 of the *CFCSA* with authority to carry out a service review as contemplated by section 93.2 of the Act.

Deliverables

Mr. Plecas will provide:

- Reports to the Minister to inform of progress, in a manner as agreed between the Minister and Mr. Plecas.
- An Interim Report on the comparative analysis of applicable legislation, policy, standards and practice and recommendations for the improvement of Ministry, and other, systemic processes.
- A final report summarizing the review and will include:
 - An analysis of the J.P. case and how it informs systemic issues with legislation, policies, standards and practice;
 - Findings related to each objective; and
 - Recommendations.

Public Release of Report

An interim report will be submitted to the Minister no later than January 18, 2016. The interim report will be provided to the Representative of Children and Youth in advance of the Minister making the report public no later than January 28, 2016.

The date of the final report will be determined when the proceedings contemplating the disclosure of materials relating to the J.P. case have been resolved.

Appendix 2: Review Team - short resumes

Bob Plecas

In the eighties, Bob Plecas served as Deputy Minister under five Premiers and 25 Ministers, in ten Cabinet Portfolios. He acted as a government trouble-shooter and was concurrently responsible for the Royal and VIP visits during EXPO; labour negotiations and government personnel issues; outsourcing and privatization; creation of and Secretary to the Board of the BC Lotteries Corporation; head negotiator on domestic and international files; and general all-round fixer on a plethora of other difficult problems. During his time in government, he was author of over 20 major pieces of legislation.

Bob also served as lecturer at the University of Victoria's School of Public Administration and Queen's University's Senior Manager's Course. Programs developed and taught include "Negotiation Strategies", "Crisis Management" and "Best Practices".

Bob left government in 1991 and for five years he advised leaders of BC's major corporations as well as the Coalition of Small Business on practical solutions to difficult problems. He returned in 1996, at the Premier's request, to lead the largest government reorganization in the history of BC to establish the Children's Ministry.

As planned, he left government in 1998 and returned to work as a consultant with CEO's and Chairs of the Board of major Canadian and BC companies on their most difficult problems, including acting as President of BC Lumber Trade Council for negotiations in the softwood lumber trade dispute between Canada and the USA.

Another career followed, this time finding solutions through mediating litigious disputes over development projects valued in many hundreds of millions of dollars between First Nations and industry.

Bob also served as a political analyst on CBC radio's weekly politics show for 12 years, and has been a regular television pundit on programs such as Vaughn Palmer's *Voice of the Province*. He also writes extensively on political issues in newspapers across the country and is the author of the best-selling book *Bill Bennett, a Mandarin's View* (2006).

Bob lives in Victoria with his wife, Pauline Rafferty, recently retired CEO of the Royal British Columbia Museum. They have 5 children and 10 grandchildren.

Don Avison

Don Avison is a Victoria based lawyer and consultant with extensive legal, public policy and governance experience. He was with the Attorney General of Canada for many years serving as a Crown Attorney where he frequently dealt with cases involving assaults and sexual assaults within families, as appellate counsel in the office of the Assistant Deputy Attorney General in Ottawa, as General Counsel and Chief Crown Attorney for the Northwest Territories and as the

Director General of Justice Canada's Aboriginal Justice Initiative. In 1994 he returned to the Northwest Territories as Deputy Minister of Justice.

Don has been counsel at all levels of Court and was counsel, or co-counsel, on several important Supreme Court cases including litigation that upheld the constitutional validity of mandatory minimum sentences for first and second degree murder.

In British Columbia, Don has served as Deputy Minister of Education Skills and Training, the Crown Corporations Secretariat and Health, followed by a ten year term as President of the University Presidents' Council of British Columbia. He is frequently called upon to do independent governance reviews, and his 2010 review of B.C.'s College of Teachers resulted in fundamental changes to that organization.

Jeremy Berland, MSW

Now working as a consultant, Jeremy retired in 2013 after nearly five years as Deputy Representative for Children and Youth. He was British Columbia's Director of Child Welfare and Assistant Deputy Minister for Regional Operations from 2003 to 2006 and this appointment followed a career at virtually every level of service delivery in child welfare from direct service as a child protection worker to local and regional management. Jeremy has spoken extensively in Canada and internationally about child welfare issues. Jeremy was one of the authors of BC's child protection legislation, BC's Adoption Act and many other legislative initiatives.

As Deputy Representative, Jeremy was a key member of the executive group and had direct responsibility for the administration of the office, the advocacy and research functions. Jeremy holds an appointment as Adjunct Assistant Professor at U Vic's School of Child and Youth Care. In addition, he has maintained multiple mentoring relationships with young people at various stages of their child welfare careers

Les Boon

Les Boon possesses a Master's Degree in Counseling Psychology from UBC. He began his career as a Youth Probation Officer in Vancouver, holding positions in both community services and correctional centers. His work focussed on program development that was designed to minimize the negative effect for youth in custody, and facilitate the re-entry of incarcerated adults into the community. During this phase of his career, Les initiated a treatment program for incarcerated adult sex offenders; provincial interagency sex offender treatment program standards; interagency youth resource planning for improving agency access; and resource sharing and targeted planning for youth at risk.

Les joined MCFD after 24 years in Correction and spent 12 years as the Regional Executive Director for the Fraser Valley area. He is committed to integrated community-based agency planning and resource decision making focused on youth engagement, and he deeply believes that better decisions are made when those affected are engaged in the planning and decision making, with outcomes set and measured by research-based quality assurance standards.

Les is a recipient of the Governor General Exemplary Services Award. He has served as a Board Director of the Child Welfare League of Canada, the Vancouver Children's Foundation, and the Spirit Bear Aboriginal Treatment Centre for girls.

Jane Cowell

Jane Cowell started her career in Child Welfare in 1978 in Williams Lake. Over the years Jane has held various local and regional management roles in the field of child welfare. In 1991 Jane served on the Community Panel, a very extensive provincial consultation process, which informed the development of the Child, Family and Community Service Act. In 1996 Jane was a member of the transition team that facilitated the development of the MCFD. She later became the regional Operating Officer for Greater Victoria. Jane retired after 32 years in the field of child welfare. She has always been passionate about the work with children and families.

David Harris Flaherty PhD

David Flaherty is a specialist in the management of privacy and information policy issues. He served a six-year, non-renewable term as the first Information and Privacy Commissioner for the Province of British Columbia (1993-99). He wrote 320 Orders under the B.C. Freedom of Information and Protection of Privacy Act and also pioneered the development of Privacy Impact Assessments and site visits as forms of privacy compliance auditing.

As a consultant since 1999, Flaherty's services for clients have included strategic advice on the management of privacy issues and of relationships with privacy authorities, privacy advocates, and the general public; conducting overall assessments of privacy compliance (privacy reviews, audits, site visits, knowledge transfer); preparing Privacy Impact Assessments; helping to manage and prevent privacy breaches; and developing on-line privacy training and other privacy risk management tools. Flaherty has written or edited fourteen books.

Dr. Deborah Goodman

Deborah Goodman is the Director of the Child Welfare Institute (CWI) at the Children's Aid Society of Toronto and holds a status position as Assistant Professor at the Factor-Inwentash Faculty of Social Work, University of Toronto. She has worked, taught and conducted research in the Ontario child and family, child welfare and children's mental health fields for over thirty years. As well, she consults and conducts reviews of child welfare cases before Canadian courts regarding adherence to practice standards.

Deborah and the CWI team currently provide training on a multitude of topics to thousands of human service and helping professionals each year. Since 2007, the CWI team have completed over 100 research studies and community based evaluations focused on advancing evidence-informed practices aimed at-risk/vulnerable children, youth and families. She is committed to partnering and collaborating with youth, families, community agencies, academia, policy makers and funders to advance evidence-informed practice, outcome measurement and evaluation frameworks.

In 2007, Deborah received the Outstanding Achievement in Research and Evaluation Award from the Child Welfare League of Canada.

Rene Peloquin

As a partner of Queenswood Consulting Group, René Peloquin brings almost 20 years of experience with program evaluation and analysis, policy development, strategic and operational planning, performance measurement and change management. René has led more than 30 reviews working with social services and health sectors; and prepared plain-language reports to government and community-based agencies. Rene has a Juris Doctor from the University of Victoria, and was called to the Bar in BC in 1997. Since, he has focused on management consulting, and is a partner with Queenswood Consulting.

Thea Vakil PhD

Thea is a researcher and former senior executive with extensive experience in a number of large portfolios in the British Columbia government, including Secretary to the Treasury Board, Associate Deputy Minister for the Ministry of Health and the Ministry of Children and Family Development. She is an award winning Associate Professor and Associate Director of the School of Public Administration, University of Victoria, where she teaches graduate courses in public policy, leadership, ethics and strategic planning. Her research interests are public policy, governing structures as well as organizational change and innovation. She consults extensively on these and other topics with local and provincial governments.

Claudia Wilimovsky

Claudia recently joined the review team to provide communications advice. She is a communications professional with more than 35 years' experience developing innovative strategic management and communications plans, excelling in writing, event and project management. Claudia worked for more than 12 years as a public servant in BC crowns, ministries, and central agencies. In 1996 she assisted in the development of the Ministry for Children and Families. Her last role in government was as Assistant Deputy Minister of Communications for the Public Affairs Bureau. She has been an independent consultant for the past 12 years and is accredited with the International Association of Business Communicators.

Appendix 3: MCFD Senior Leadership, 1996-present

Minister	Term	Length of term
Joy MacPhail	February-June 1996	4 months
Dennis Streifel	June-September 1996	3 months
Penny Priddy	September 1996 – February 1998	1 year, 5 months
Lois Boone	February 1998 – February 2000	2 years
Gretchen Brewin	February-November 2000	9 months
Edward John	November 2000 – June 2001	7 months
Gordon Hogg	June 2001 – January 2004	2 years, 7 months
Christy Clark	January-September 2004	8 months
Stan Hagen	September 2004 – August 2006	2 years, 2 months
Tom Christensen	August 2006-June 2009	2 years, 10 months
Mary Polak	June 2009 – March 2011	1 year, 9 months
Mary MacNeil	March 2011 – September 2012	1 year, 6 months
Stephanie Cadieux	September 2012 – present	3 years, 3 months

Deputy Minister	Term	Length of Term
Bob Plecas	September 1996 – February 1998	1 year, 5 months
Mike Corbeil	February 1998 – July 2000	2 years, 5 months
Sharon Manson Singer	July 2000 – June 2001	11 months
Chris Haynes	June 2001 – January 2004	2 years, 7 months
Alison MacPhail	January 2004 – February 2006	2 years
Arn van Iersel	February-April 2006	2 months
Lesley du Toit	April 2006 – March 2011	4 years, 11 months
Stephen Brown	March 2011 – June 2013	2 years, 3 months
Mark Sieben	June 2013 – present	2 years, 7 months

Provincial Director of Child Welfare	Term	Length of Term
Ross Dawson	1996-2001	4 years
Wayne Matheson	2001	1 year
David Young	2001-2003	2 years, 6 months
Jeremy Berland	July 2003 – February 2006	2 years, 7 months
Mark Sieben	February 2006 – January 2007	11 months
Marilyn Hedlund	January 2007 – July 2008	1 year, 6 months
None	July 2008 – March 2011	2 years, 9 months
Doug Hughes	March 2011 – September 2013	2 years, 5 months
Cory Heavener	September 2013 – present	2 years, 4 months

Appendix 4: Characteristics and Components of a CQI system

The characteristics of a Continuous Quality Improvement system should include:

- Meaningful staff engagement in the definition, structure and processes in all aspects of QA and at all levels of the organisation;
- In particular the format, content and presentation of all Performance Measurement Data and Reports are built in collaboration between the current data experts and the engagement of staff;
- Performance Measurement Reports are linked to community data available through health education and universities in order to appreciate the community environment in which MCFD services are provided;
- Achieving balance between being an accountable organization but as well a learning organization;
- Having a planning process from the office level in a manner that produces an engaged practice improvement plan building toward a Ministry QA improvement plan; and
- Demonstrating the ability to anticipate the future. Critical to this ability is to identify and analysis trends and in this regard it would be very helpful if a Performance Management Report included up-front a summary of practice trend.

The components of a CQI system that should be contemplated in an enhanced MCFD strategic plan therefore include:

- *Monitoring* – including data collection and analysis, research, performance expectations, and external accountability;
- *Audits* – including case reviews and office audits;
- *Engagement* – including staff involvement in all aspects of planning and decision making, as well as collaborative planning with community partners, community leaders, and above all clients;
- *Learning* – including data interpretation by statistical experts, management and staff, performance debriefing at each level of the organization, and targeted debriefing with community and clients groups; and
- Improvement planning – including annual improvement plans founded upon the above components which should be designed to build up to senior management toward the development of an overarching Ministry plan.

Appendix 5: Participants in this review

The Plecas Review team would like to sincerely thank the following individuals for their participation in this review process:

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Sharon Armstrong	Dianne Heath	Cat Reynolds
Leah Bailey	Cory Heavener	Janice Richardson
Tracey Bann	Kim Henderson	Beth Rivera
Martin Bartell	Nicole Henderson	Janine Rizzo
Bernadette Battle	Sharmaine Henderson	Sheena Robertson
Cheryl Beauchamp	Robyn Hill	Carol Ross
Daniel Bibby	Tina Hill	Kim Rossmo
Karen Blackman	Ute Holley	Gina Saculsan
Allison Bond	Paul Houle	Cathy Seagris
Rob Byers	Cheryl Howarth	Alex Scheiber
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Jalene Davies	Ed John	Elizabeth Shields
Tammy Davis	Darren Jones	John Shields
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Leah Greathead	Tim Osborne	Sheila Wilkin
Alison Grundle	Dennis Padmore	Martin Wright

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