

# **Special Review:**

A Review of Motherisk Drug Testing Laboratory  
Hair Strand Testing in Child Protection in  
British Columbia:  
**PHASE 1**

**DECEMBER 2017**



**Contents**

Introduction ..... 2

Purpose of Special Review ..... 3

Hair Strand Testing Validity Issues ..... 4

Overview of Practice in the Use of Hair Strand Tests in Child Protection Cases in British Columbia ..... 4

Methodology ..... 6

Cases Selected for File Review ..... 7

Demographics of the Children and Youth in the Review (N=71) ..... 11

Findings ..... 12

Conclusion ..... 14

Next Steps ..... 16

Appendix A: Moratorium on Hair Strand Tests in BC ..... 17

Appendix B: Timeline of Key Events in the Hair Strand Test Review ..... 18

Appendix C: File Review Matrix Data Collection Tool ..... 19

## Introduction

Child welfare authorities in several countries, including Canada, have for many years, used a variety of tests for detecting the use of drugs or alcohol in parents suffering from addictions where the associated behaviour has resulted in harm or the risk of harm to their children. Some of these tests are traditionally used in forensics as well. Such tests can confirm a parent's compliance with drug and alcohol treatment programs and, when used as part of a thorough and holistic investigation and assessment, can help inform plans to reduce the risk of harm to children.

Tests ordered by social workers are conducted by laboratories and include blood tests, urine tests, oral fluid tests, and hair strand tests. Hair strand testing refers to the chemical analysis of a hair or follicle sample, and has the advantage of showing a history of drug use. The Ministry of Children and Family Development (MCFD) and Delegated Aboriginal Agencies (DAA) in British Columbia, like most other provinces and territories, has ordered hair strand tests from Motherisk Drug Testing Laboratory (MDTL) at Toronto's Hospital for Sick Children.

In the Province of Ontario, the Honourable Susan Lang was appointed in November 2014 to conduct an Independent Review of the adequacy and reliability of the hair strand drug and alcohol testing methodology utilized by MDTL between 2005 and 2015, for use in child protection and criminal proceedings. This review was initiated when the Ontario Court of Appeal overturned a parent's conviction in October 2014 after expert evidence challenged the methodology and the interpretation of the results of hair strand tests that MDTL presented in the case. Concerns were raised across Canadian jurisdictions about the impact of the testing on child protection case decisions and court decisions.

In March 2015, MDTL suspended all non-research operations pending the results of the Independent Review. This resulted in Ontario placing a moratorium on the use of hair strand testing in child protection cases (April 2015). In May 2015, the Provincial Director of Child Welfare in BC also placed a moratorium<sup>1</sup> on the use of hair strand tests and agreed to work with other child welfare jurisdictions to review the practice of hair strand testing, including policies and guidelines related to the practice. After Ontario, BC was the first child welfare authority to suspend hair strand testing.

In December 2015, the Honourable Susan Lang released a final report<sup>2</sup> and recommendations to the Government of Ontario. The report found the hair strand testing procedures used by MDTL were inadequate and unreliable for use in child protection and criminal proceedings, and

---

<sup>1</sup> See Appendix A: Moratorium on Hair Strand Tests

<sup>2</sup> Lang, Susan. (December 2015). *Report of the Motherisk Hair Analysis Independent Review*. Retrieved from [http://www.m-hair.ca/docs/default-source/default-document-library/motherisk\\_enfb30b45b7f266cc881aff000960f99.pdf?sfvrsn=2](http://www.m-hair.ca/docs/default-source/default-document-library/motherisk_enfb30b45b7f266cc881aff000960f99.pdf?sfvrsn=2)

did not meet internationally recognized forensic standards. According to the report even though MDTL was aware that these results could be used in court proceedings, they did not apply the necessary forensic standards throughout the testing process. Furthermore, the review found serious problems with the validity of hair strand tests, generally. In January 2016, the Government of Ontario established an independent commission, led by Commissioner Judith C. Beaman<sup>3</sup>, to assist families who may have been affected by the MDTL's flawed testing methodology. A report on the work of this commission is due to be released in January 2018.

Given the Ontario Independent Review found that the MDTL test results were inadequate and unreliable, the Provincial Director of Child Welfare in BC launched a special review in 2016 to determine how hair strand tests conducted by MDTL may have affected decisions in child protection cases in BC between 2005 and 2015.<sup>4</sup> Since initiating this review, BC has provided support and information to other jurisdictions that are reviewing their practice and policies on hair strand testing.

The *Child, Family and Community Service Act* (the Act) is the legislative authority for child protection services in BC. The Act must be interpreted and administered so that the safety and well-being of children are the paramount considerations. The Act states that children are entitled to be protected from abuse and neglect, and recognizes that the family is the preferred environment for the care and upbringing of children.

Child protection services are provided by delegated social workers in the MCFD and DAAs. Through delegation agreements, the Provincial Director of Child Welfare (the Director) gives authority to Aboriginal agencies, and their employees, to undertake administration of all or parts of the Act.

### **Purpose of Special Review**

The purpose of the review was to determine if, and how, the MDTL test results may have affected child protection decisions in BC.

The review aimed to address the following questions:

1. Were the hair strand tests a key determinant in decisions to keep a child in care?
2. Were hair strand test results presented in court as evidence?
3. Was other evidence presented in court?
4. Were there substantiated child protection reports after a positive hair strand test?

The findings from this special review have been used to inform practice and policies on hair strand testing in child protection cases in BC.

---

<sup>3</sup> Motherisk Commission: <https://motheriskcommission.ca/en/mrc-overview/>

<sup>4</sup> See Appendix B: Timeline of Key Events in the Hair Strand Test Review

## Hair Strand Testing Validity Issues

The Honourable Susan Lang's report revealed that, even in laboratories where an effective Quality Management System is in place, a number of factors complicate the interpretation that can be given to a particular result. Complications include: a hair color bias (basic drugs such as cocaine, opiates and amphetamines have been found to incorporate more readily into darker hair),<sup>5</sup> variations in hair growth rates,<sup>6,7</sup> effects from hair products, cosmetic treatments<sup>8</sup> and hair damage. For all individuals the role of external contamination remains a substantial issue, as even the most aggressive washing procedures cannot rule out external contamination as a factor.

## Overview of Practice in the Use of Hair Strand Tests in Child Protection Cases in British Columbia

When the reports of issues with MDTL's hair strand testing procedures emerged through the Lang Review in 2015, the Provincial Director of Child Welfare responded quickly to ensure similar situations did not arise in the future for BC families served by MCFD and DAAs by placing a moratorium on the use of such tests. The Director then took steps to determine what role hair strand test results had played in past cases.

Although the ministry had not formally tracked usage of hair strand testing, it was known that this type of testing by social workers was not uncommon. Information provided by the Toronto's Hospital for Sick Children revealed the prevalence of usage of hair strand testing across the province. A more detailed review of usage across BC revealed that MDTL had been used in 10 of their 13 regions, as well as several Delegated Aboriginal Agencies. Samples for testing were collected by various methods. These methods included samples being collected by social workers, nurses and doctors. On other occasions they were collected by local medical laboratories and sent to MDTL for testing.

The Act sets out the circumstances in which a child or youth may be considered to be in need of protection. A child or youth can only be brought into care by court order if the child is in immediate danger, where no less disruptive measures are available or adequate. There are legal conditions that must be satisfied for the courts to make custody orders ranging from removal to interim or continuing custody. Each order along this continuum requires more

---

<sup>5</sup> T.Mieczkowski and R.Newe, "Statistical Examination of Hair Color as a Potential Biasing Factor in Hair Analysis" (2000), 107 (1-3). *Forensic Science International* 13-38.

<sup>6</sup> G. Cooper, "Anatomy and Physiology of Hair, and Principles for its Collection."

<sup>7</sup> P.Kintz, A.Salomone, and M.Vicenti, eds. "Hair Analysis in Clinical and Forensic Toxicology". Amsterdam:Elsevier/Academic Press (2015).

<sup>8</sup> D.A. Kidwell, F.P. Smith, and A.R. Shepherd, "Ethnic Hair Care Products May Increase False Positives in Hair Drug Testing" (2015) 257 *Forensic Science International* 160-4

evidence and broader considerations by the court. To permanently sever all the parent’s guardianship responsibilities, the court must conclude that there is no likelihood that the circumstances that led to the child's removal will improve within a reasonable time, or that the parent will be able to meet the child's needs.

Unlike DNA tests which may place a suspect at the scene of a crime, drug detection methods like hair strand tests are not direct evidence that a child needs protection. Concluding that a child has been, or is likely to be, abused or neglected is complex and requires the social worker to gather and assess a great deal of information. Drug detection tests can confirm a parent’s use of certain drugs and may establish a parent’s honesty with the social worker about their usage, but the relationship between these factors and child maltreatment is complex.

To obtain custody of a child by court order requires that social workers not only find that a child needs protection; social workers must also demonstrate that less disruptive measures, such as support services or treatment services, are insufficient for the child to safely remain in the care of parents. After removing a child, social workers must present evidence to the court to support their application for a custody order. These applications require substantial evidence such as: reports and collateral checks with extended family, community, and service providers; home visits; seeing and interviewing the children; and, medical examinations. The results of a hair strand or any other drug test may be helpful to measure a parent’s progress in a treatment program, but even a series of positive tests would be insufficient to lead to a finding that a child is in need of protection, let alone make a case for removal.

Historically, social work practice involving parents with addictions has been guided by the following guidelines and protocol:

- *Practice Guidelines for Assessing Parental Substance Use as a Risk Factor in Child Protection Cases* (November 2003)
- *Protocol Framework and Working Guidelines Between Child Protection and Alcohol and Drug Services* (November 2003)

The Practice Guidelines included cautions regarding the use of blood and urine testing for drugs: *“Drug testing may be considered in situations where it is important to establish whether a parent has been using drugs. The results of drug testing in themselves do not indicate the ability of the parent to care for a child. Decisions concerning the child's safety and well-being should always be based on an assessment of the impact of the parent's substance use on the child.”* The Practice Guidelines were clear that a positive alcohol or drug test was not sufficient in itself to determine the child’s need for protective services; having said this, social workers believed the hair strand test results they received were valid and reliable and

*“As a result of emerging evidence that questions the reliability of hair strand testing, the Director of Child Welfare has directed that the practice of conducting hair strand testing in child protection cases by child welfare workers in the ministry and Delegated Aboriginal Agencies be discontinued.” – Excerpt from Practice Guidelines When Assessing Parental Problematic Substance Use in Child Welfare (revised October 2017)*

appropriate to use as part of the evidence they would put before the Courts. The Practice Guidelines have since been updated with similar cautions in place. The new guidelines prohibit the use of hair strand testing.

## Methodology

This review focuses on child protection cases in BC which used MDTL's hair strand test results as part of the assessment, case planning and decision process. On March 24, 2016, a data sharing agreement between MCFD and the Toronto's Hospital for Sick Children was signed to enable the confidential sharing of the names of individuals who had a hair strand test completed by MDTL. Records were obtained from the Toronto's Hospital for Sick Children of individuals involved with MCFD and DAAs who had a hair strand test conducted by MDTL between 2005 and 2015.

The review is being conducted in two phases: Phase 1 involved an in-depth review of files from select cases (see criteria below). In this phase information was gathered on demographics, child risk indicators, response of caregivers to child welfare interventions, as well as specific information regarding the use of hair strand tests in case planning, decision making and court decisions. Phase 2 will involve examining court records and interviewing social workers who served these families.

The decision to review only MCFD and DAAs electronic and physical files was made after considering the need for a timely review of files, given permanency decisions might be underway. Obtaining and reviewing court records and interviewing numerous social workers is time consuming and would have substantially delayed the review of cases.

Files can be reviewed relatively quickly and if the files yielded information that a hair strand test was a key determinant in a social worker's and court's decision-making, the cases would be flagged for immediate re-assessment.

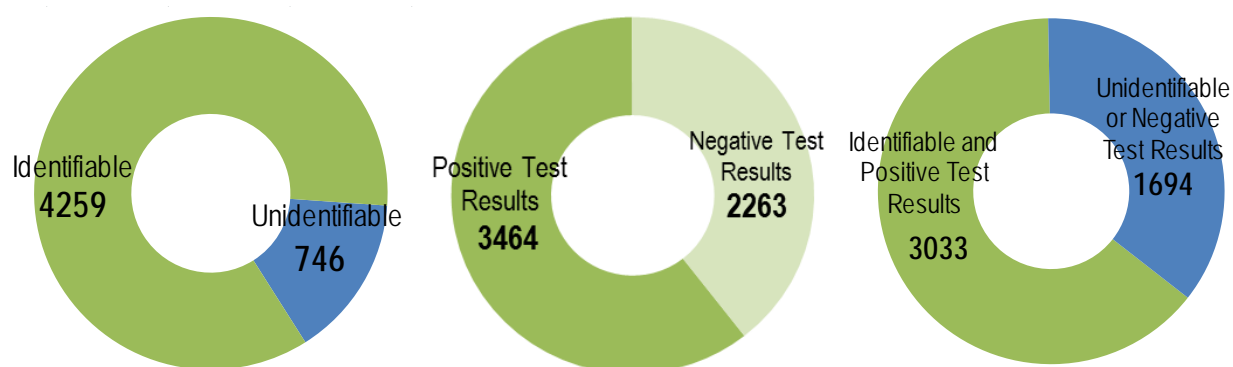
The file reviews were conducted by MCFD practice analysts who have many years' experience working in the ministry providing child protection services. Practice analysts are experienced child welfare practitioners who are delegated under the Act to conduct quality assurance processes including audits, case reviews, administrative reviews and related activities.

## Cases Selected for File Review

A data file from Toronto’s Hospital for Sick Children containing records of individuals involved with MCFD and DAA’s who had a hair strand test conducted between 2005 and 2015 by MDTL was provided to the Director. The data file contained 5,727 test results (negative and positive) for 5,005 individuals, as some individuals were subject to more than one hair strand test during the time period.

Of the 5,727 test results, 746 were unidentifiable.<sup>9</sup>

All of these test results were examined for MCFD and DAA involvement.



- 3,464 of the 5,727 samples indicated a positive hair strand test.
- 2,263 tests were negative; these were screened out, as they could not have influenced the decision to keep a child or youth in care (CYIC).<sup>10</sup>

This resulted in 3,033 individuals where a name could be matched, and where a positive test result had occurred. The ministry next identified which of those 3,033 individuals were connected to any child or youth who was ever ‘in care’ of the Director.<sup>11</sup>

The 3,033 individuals could include: the child him/herself or parents where the children were not found in need of protection, the family utilized family based services to meet the child protection need, the family received all necessary protection services through a Family Development Response, the family received all necessary protection services within a Family Service file (did not need to come into care), the children were placed within their family or community within a ministry-approved arrangement, the youth entered into a Youth

<sup>9</sup> If any of the first name, last name, or birthday was missing a match could not be made; this number includes positive and negative results.

<sup>10</sup> There may be a case where a false negative result occurred from a hair strand test: however, it is likely the ministry may have received further protection reports regarding the family or that the ministry may have continued to provide ongoing service thereby addressing any further concerns.

<sup>11</sup> Individuals were matched against any child service file that was open 90 days before the hair strand test result date or 7 months after the hair strand test result date.

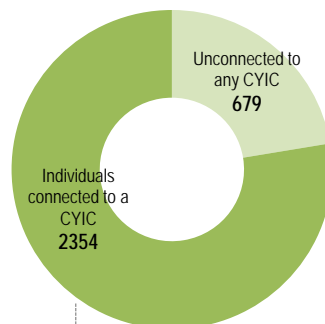


Agreement with the Ministry, the children stayed home under court ordered Supervision (Supervision Order).

This resulted in 2,354 individuals connected to 843 children and youth in care (open and closed cases).

Of the 843 children and youth in care, 717 children and youth were out of scope for the in-depth file review process as they were either:

- Residing with their parents (i.e. not in care); or
- The subject of a closed child service file; or
- The subject of a completed adoption<sup>12</sup>; or
- Had reached the age of majority (19).



679 names were removed as they were not connected to a child or youth who had ever been 'in care', leaving 2354 individuals connected to a child or youth who had ever been 'in care'.

The Provincial Director focused the in-depth file review on children and youth 'in care' who had an open file as of April 2016, as it was in this month that the defined list of children and youth "in care" was confirmed. A total of 126 children and youth in care were identified as having open files, where 67 were subject to a continuing custody order (CCO), which means the Director is the sole guardian of the child/youth.

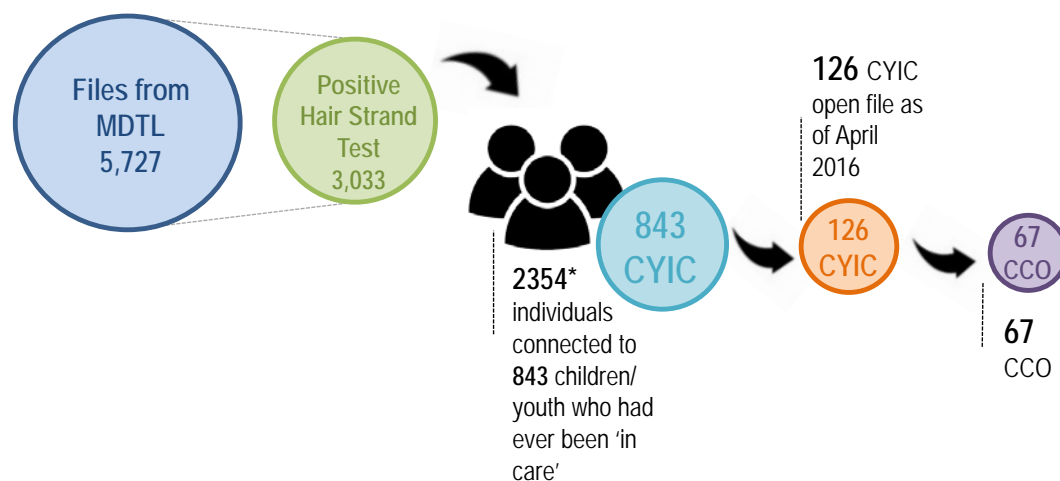
The remaining 59 children and youth were subject to the following legal statuses under the Act as of April 2016:

- Temporary Custody (27)
- Interim Order (19)
- Voluntary Care Agreement (9)
- Removal of Child (2)
- Special Needs Agreement (2)

*Children come into care through a court order or an agreement with their guardians. When certain court orders are made, MCFD becomes the guardian of the child. When the courts are involved, evidence must be submitted to inform the Court of the situation. This evidence could include a hair strand test.*

<sup>12</sup> Adopted children or youth were not included in the review due to the legal restrictions of an adoption order.

The following graphic illustrates how 67 files came to be reviewed during Phase 1.



\* Note: The sum of the numbers in the above graphic does not equal the total number of files from MDTL (5,727) because in some cases more than one test was conducted on an individual.

The in-depth file review<sup>13</sup> was conducted in two stages in order to prioritize certain cases. Reviewing relevant case information for a child/youth can take several hours to a day as factors such as the length of time in care and the history of involvement between the ministry and the child, and the child’s family, can comprise several volumes of file information.

### Priority 1 File Reviews

Children and youth under a continuing custody order who were placed in an adoption residency placement (n=20) were prioritized, followed by the remaining ‘in care’ records. This approach ensured that the adoption process could be suspended if a case was identified in which it appeared the results of a hair strand test was a determinant in the original decision to obtain a continuing care order. Once an adoption order is granted by the court, it is a final permanency decision, and the Provincial Director would not be able to address any identified concerns about how the hair strand test was used in case planning decisions.

The review of priority 1 files commenced in September 2016. Once these files were obtained, it was determined that adoption orders had already been granted for 6 children (since April 2016) which meant the children were no longer in care and Director no longer was the guardian of the children. Therefore, 14 files were reviewed as priority.

<sup>13</sup> See Appendix C: File Review Matrix Data Collection Tool

**Priority 2 File Reviews**

Of the 106 remaining children, significant changes in legal status had occurred since the initial data gathering in April 30, 2016. The legal status for the remaining sample was refreshed in December 2016. Because the review sample was several months old, and the moratorium had been in place since May 2015, it was highly unlikely that the hair strand test would be a determining factor or even become an exhibit in court proceedings involving these children and youth. For this reason an in-depth review of the physical and electronic files was only completed on children in care subject to a continuing custody order (CCO). The files of 57 children subject to a CCO were reviewed in this stage.

Due to the changes in legal status and adoption orders being granted, in-depth file reviews of 71 children and youth were conducted during the two stages.

**Table 1:**

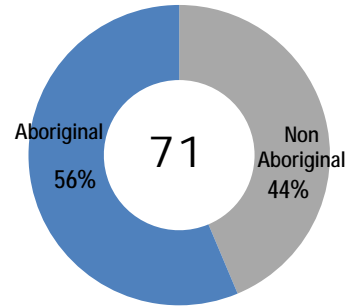
<b>Sample Size</b>	<b>Sample Description</b>
<b>Priority 1 (n=14)</b>	Children on a continuing custody order with an adoption residency placement as of April 30, 2016, associated with an individual with a positive hair strand test.
<b>Priority 2 (n=57)</b>	Children in care on a continuing custody order as of December 2016, associated with an individual with a positive hair strand test.
<b>Total: 71</b>	

## Demographics of the Children and Youth in the Review (N=71)

This section provides an overview of the demographic information gathered on the 71 children and youth who were the subjects of the Priority 1 Review.

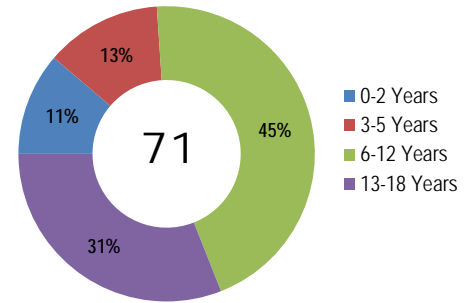
### Aboriginal Identity and Age

Of the 71 children and youth, fifty-six per cent of the review sample were Aboriginal children and youth (n=40) and 44 per cent were non-Aboriginal children and youth (n=31). The average age of the children and youth at time of review was 9 years of age. Thirty-two (or 45 per cent) of the 71 children and youth were between 6 and 12 years of age at time of review.



### MCFD/Delegated Aboriginal Agency

Sixty of the 71 children and youth were served by MCFD (85 per cent) and 11 were served by a Delegated Aboriginal Agency (15 per cent). Of the 60 children/youth served by MCFD, 21 were from SDA 12 Okanagan.



SDA/DAA Sample Distribution	%
SDA 11 – Kootenays	4%
SDA 12 – Okanagan	30%
SDA 13 – Thompson Cariboo Shuswap	10%
SDA 21 – East Fraser	7%
SDA 22 – North Fraser	4%
SDA 23 – South Fraser	6%
SDA 25 – Coast/North Shore	6%
SDA 31 – South Vancouver Island	8%
SDA 32 – North Vancouver Island	8%
SDA 43 – Northeast	1%
Fraser Valley Aboriginal Children and Family Services Society	1%
Ktunaxa/Kinbasket Child & Family Services	1%
Kw’umut Lelum Child & Family Services	1%
Lalum’utul’ Smun’eem Child & Family Services	6%
Métis Family Services	1%
Nezul Be Hunuyeh Child & Family Services Society	3%
Surrounded by Cedar Child & Family Services	1%
<b>TOTAL</b>	<b>100%</b>

Note: The percentages may not add up to 100 due to rounding

The variations in the number of tests conducted by the different regions and agencies appears to be the result of regional variations in social worker practice and/or expectations of the judiciary, rather than differences in the number of cases involving substance misuse.

## Findings

### 1. Were the hair strand tests a key determinant in decisions to keep a child in care?

On the basis of the methodology employed in this review, individual cases could not be identified where hair strand test results were a clear key determinant in the decision to keep the child in the care. Firm conclusions cannot, however, be made from a review of file records alone as the file records cannot reveal the impact the positive hair strand test had on the social worker's perspective of the parent's honesty or perceived willingness to address issues the social worker believed were impacting parenting, and how these perspectives may have impacted the planning trajectory.

Of the 71 files reviewed:

- 47 made specific reference to a hair strand test having been completed, and in 61 files, there was reference to additional tests to measure the parent's drug or alcohol consumption such as urine, blood and meconium<sup>14</sup> tests.
- 54 had the hair strand test completed two or more years before the granting of the CCO, which would diminish the relevance of that evidence to the parents' circumstances at the time the order was made.
- Of the remaining 17 files, 14 were files in which the CCO was granted with the consent of the parents and the remaining 3 files had long standing child welfare history with older siblings already in care by CCO.
- In one case, the hair strand test result appears to be one of the determining factors in the decision to remove a child, but does not appear to be a determinant in subsequent child protection decisions or court applications. In that situation, the parent had denied any drug or alcohol use, and refused a urine test. As discussed above, more information is required to determine if the HST result impacted the trajectory of the case from that point onwards.

### 2. Were hair strand test results presented in court as evidence?

In all but 2 files, there is no evidence that hair strand test results were presented in court at the time of application for a CCO. In those 2 files, a reference to the results of a parent's hair strand test appeared in a Social Worker's Affidavit and was given into evidence at a CCO hearing. In both cases, multiple child protection concerns were presented to the court.

In all cases, evidence was presented that demonstrated a long-standing history of child protection concerns and inability of the parent to take the steps necessary to address these

---

<sup>14</sup> Meconium tests are conducted on the first feces of a newborn infant to detect exposure to drugs in utero.

protection concerns. Based on this evidence, the court did not find there was a reasonable likelihood that these conditions would improve, thus granting of the CCO.

### **3. Was other evidence presented in court?**

In those cases where drug use was a contributing factor to child neglect and a parent's inability to care for the child, child protection concerns were significant and of extended duration.

In 44 of the 71 cases, the CCO was granted with the parents' consent or in the parents' absence after having been duly served the Notice of Hearing. In these cases, the CCO was granted with the parents' written consent or based on an Affidavit from the Social Worker. All Affidavits described a lengthy history of child protection concerns and the parents' inability to safely care for their children despite numerous support services offered.

When the CCO was not granted by consent, evidence presented included:

- parenting capacity assessments;
- police reports;
- medical reports;
- results of urine, blood and meconium tests; and,
- testimony from the subject children, ministry social workers and service providers.

### **4. Were there substantiated child protection reports after the positive hair strand test?**

All the cases reviewed had an extensive history of child protection service which included multiple, substantiated child protection reports. Substantiated reports involve situations where, following an investigation, a child protection social worker concludes that a child needs protection as described in the Act. Substantiated child protection issues included the following:

- Physical abuse or likelihood of physical abuse – 35 children;
- Sexual abuse or likelihood of sexual abuse– 4 children;
- Sexual exploitation – 1 child;
- Neglect – 63 children;
- Emotional harm (family violence, chaotic lifestyle, multiple evictions, homelessness, fear) – 22 children;
- Emotional harm due to domestic violence – 39 children;
- Deprived of health/dental care – 7 children;
- Unable/unwilling to care – 58 children;
- Child absent from home – 2 children;
- Parents deceased – In 2 situations (in one the father had completed suicide; in the other, the parent died of an overdose);
- Child abandoned – In 5 situations, children had been left for extended periods of time without adequate provisions, planning or information about parent's whereabouts; and,
- Access visits, usually supervised, were offered in all cases, repeatedly:

- In 32 situations, parents were inconsistent in attending access visits or did not attend at all; and,
- In 45 situations, parents were inconsistent or did not attend scheduled visits with the case social worker.

In all cases, a range of support services were offered with little or no reliable evidence of sustained reduction in risk to the child. In all cases, parents either:

- did not participate in treatment at all;
- participated and relapsed after completing; or,
- did not complete the program.

In one case, a parent successfully completed treatment resulting in the child's return to the parent after a demonstrated period of sobriety, only to relapse which required the child to re-enter ministry care due to neglect and the parent's inability to provide safe care.

In 31 cases, the child came into care or was re-removed when there had been a breach of a term of the supervision order requiring the parent to abstain from drug or alcohol use or to attend treatment for addiction. Further information is required in order to determine if the results of the hair strand test precipitated the inclusion of a term in a supervision order that the parent abstain from substance misuse.

The parents admitted to their drug or alcohol use rendering further use of the hair strand test unnecessary in 44 of the 71 files reviewed.

In cases where it was evident that a hair strand test had been completed, it had been done early in the life of the case, such as during a child protection investigation, at which time it was used to establish parental drug use in light of the parent's denial. Once the drug use was confirmed by the hair strand test, the focus of case planning and decision making became the provision of support services to assist the parent to become drug and alcohol free to be able to safely care for their child(ren).

## Conclusion

On the basis of the limited methodology used in phase 1 of this review, it appears that hair strand test results were not the key determinant in the decision to keep children in care. When social workers requested a hair strand test, it was often used to establish drug and alcohol use in the face of the parent's denial. Concluding that a parent has been dishonest speaks to trust and affects the relationship between the social worker and client which may influence future social worker assessments and decisions. Exploring this dynamic requires a deeper examination of the social workers' and courts' decision-making to make a more definitive finding.

It is noteworthy that all the files reviewed described an extensive history of serious child protection concerns and a prolonged pattern of parental inability to improve the circumstances that led to the child/youth's removal. Despite repeated offers from social workers the parents were unable to accept or utilize support services provided or participate in treatment programs to which they were referred. For those parents who did accept support services, they were

unable to demonstrate that they could sustain the changes necessary to safely care for their children. Analysis of the case records suggest that it was evidence of this nature that appears to have satisfied the court that there was little likelihood that the circumstances would improve within a reasonable time, thus the decision to grant continuing custody orders.

The evidence is clear from reviewing these files that families for whom hair strand tests were obtained presented with numerous child protection issues caused by or related to substance misuse. The hair strand test did not appear to be utilized for the long term decision making of the child protection social workers or the courts. What is less clear from the file information is the impact of the hair strand test result on the case trajectory, and on the court's decisions during the progress of the case from the time of the first removal to the resulting continuing custody order. These factors will be further explored in Phase 2 of this review.

The ministry has developed new *Practice Guidelines When Assessing Parental Problematic Substance Use In Child Welfare*, with training for front line practitioners scheduled to commence in early 2018. These practice guidelines continue to support blood or urine testing in circumstances where the concerns about the parent's ability to care for a child appear to be related to the parent's problematic substance use:

- where there are concerns about a newborn's in utero substance exposure;
- when a child is removed from home and complete medical information is required to plan for his/her care (including an infant exposed to substances in utero); and,
- when a child is returned home or remains in the home and drug/substance use testing is included as a term or condition of a supervision order.

As a result of the concerns identified in Ontario's Report of the Motherisk Hair Analysis Independent Review regarding the validity of hair strand test results, and due to the findings of this review that hair strand tests do not appear to support the case planning and decision making processes, the practice guidelines also state that the practice of conducting hair strand drug and alcohol testing in child protection cases by social workers in the ministry and Delegated Aboriginal Agencies will discontinue. Although there are other laboratories available to BC that could provide this test, the methodologies they use are unknown and there are major risks involved in utilizing hair strand tests to make child welfare decisions.

The report on Phase 2 of Ontario's Motherisk Commission is expected to be released in January 2018. The Provincial Director of Child Welfare will review this report and the insights from it will be used to develop the terms of reference for Phase 2 of British Columbia's review.



## Next Steps

1. The Provincial Director of Child Welfare to issue a practice directive to front line practitioners with a link to this review and revised ministry policies prohibiting the use of hair strand testing by MCFD and DAAs.
2. In 2018 child protection workers will be provided with training to support their practice in providing service to families in which problematic substance use is an issue. This training will include a review of the new *Practice Guidelines on Assessing Parental Problematic Substance Use in Child Welfare*.
3. The ministry will commence Phase 2 of this review after the Motherisk Commission in Ontario releases its final report in 2018. This phase will further examine cases in which a hair strand test was completed, including reviewing court registry records and interviewing social workers.

Appendix A: Moratorium on Hair Strand Tests in BC



Ministry of  
Children and Family  
Development

Offices of Assistant Deputy Ministers  
Christine Massey  
Allison Bond  
Cory Heavener

MEMORANDUM

Date: 2015-05-22

Ref: 222314

To: Executive Directors of Service, Executive Directors of Delegated Aboriginal Agencies and Directors of Practice

Re: Moratorium on Hair-Strand Drug and Alcohol Testing in Child Protection Cases.

The purpose of this memorandum is to inform individuals delegated under the *Child, Family and Community Service Act* about a moratorium on the use of hair-strand drug and alcohol testing in child protection cases.

In assessing the impact of parental substance use on parents' ability to safely care for children social workers have, in some cases, arranged for parents to undergo drug and alcohol testing. Practice is guided by [Practice Guidelines for Assessing Parental Substance Use as a Risk Factor in Child Protection Cases](#), which was released in 2001 and is available on the intranet.

There are three primary types of drug and alcohol testing: urine; blood; and, hair-strand. In BC hair-strand testing has been primarily conducted by the Motherisk Laboratory, which is part of the Hospital for Sick Children in Toronto. In the past year the reliability of hair-strand testing by Motherisk has been successfully challenged in criminal court proceedings in Ontario, resulting in an independent review by the Attorney General in that province. Since then Motherisk laboratories have suspended operations and no longer provides hair-strand testing anywhere in Canada.

Laboratories other than Motherisk may still conduct hair-strand testing for clients in BC, but the reliability of their methodologies is unclear to the ministry at this time; therefore this moratorium effects all hair-strand testing from all laboratories.

As a result of this new emerging evidence questioning the reliability of hair-strand testing I am placing a moratorium on the practice of conducting hair-strand testing in child protection cases by social workers in the ministry and Delegated Aboriginal Agencies. This moratorium is effective immediately and until further notice.

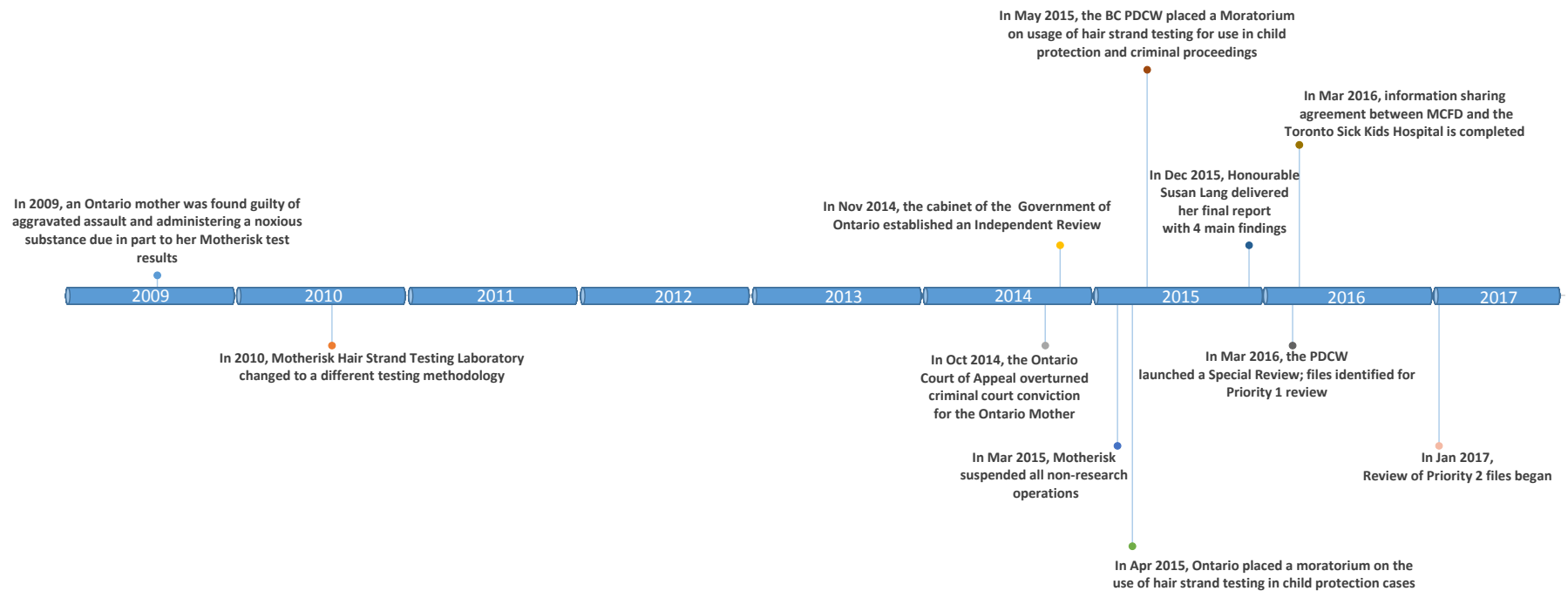
During the period of the moratorium the ministry will work with other child welfare jurisdictions to review the practice of hair-strand testing as well as review and update existing policies and guidelines related to this practice.

If you have any questions about this moratorium please consult with your Director of Practice or Consultant. If you are actively managing cases in which hair-strand testing has been conducted please inform your Executive Director of Service and discuss the matter with him/her.

Sincerely,

Cory Heavener  
ADM/Provincial Director of Child Welfare

## Appendix B: Timeline of Key Events in the Hair Strand Test Review



## **Appendix C: File Review Matrix Data Collection Tool**

A data collection tool was developed to gather and record information from electronic and physical files for the in-depth file review as follows:

- Date of MCFD Involvement;
- Legal status;
- Hair strand test sample date;
- Originating Office and Service Delivery Area;
- Donor Name and Date of Birth;
- Aboriginal/Non-Aboriginal Identify;
- Adoption Information;
- Documentation regarding the hair strand test on file;
- Substance Abuse documented separately from hair strand test;
- CFCSA Section 13 concerns: Indications of Physical or Sexual Abuse, Sexual Exploitation, Neglect, Emotional Harm by Parents' Conduct, Emotional Harm due to Domestic Violence, Parents Unwilling/Unable to Care, Child Absent from Home in Danger, Parents Deceased, Child Abandoned;
- Child Scheduled Visits with Parents;
- Social Worker Scheduled Visits with Parents;
- Scheduled Meetings with Support Services;
- Supervision Order Breaches; and,
- Comments regarding protective issues, impact of hair strand test.