

No Time to Spare



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Office of the Child and Youth Advocate
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Message from the Child and Youth Advocate

The title of this report **No Time to Spare** is a very clear message about the critical importance of timely interventions in the life of a child. Babies and young children grow and their brains develop at an incredibly fast pace. This is the time and opportunity for them to develop attachments to the adults in their lives. Predictability, responsivity, and constancy are truly important. Secure attachments have a range of positive impacts on the young child, as well as into their future years. The inverse is also true where unstable relationships and lack of attachment have significant negative repercussions on a small child and create further challenges as they grow. The child who was the focus of this report was born into a trauma filled family. However, Child Protection's response did not provide the positive interventions one should expect and hope.



I have made every effort to ensure this report does not identify this child and family. I ask that all readers respect the child's privacy.

Acting in a child's best interests requires vigilance every single day. Every decision matters. Every day matters. Every delay matters.

Every child matters.


Jacqueline Lake Kavanagh
Child and Youth Advocate

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Introduction

The Office of the Child and Youth Advocate

Newfoundland and Labrador's Child and Youth Advocate is an independent Statutory Officer of the House of Assembly. She derives authority from the **Child and Youth Advocate Act**. The role of the Advocate is to protect and represent the rights, interests, and viewpoints of children and youth in Newfoundland and Labrador. This is accomplished through individual advocacy, investigations and reviews, systemic advocacy, and children's rights education.

United Nations Convention on the Rights of the Child

The Office of the Child and Youth Advocate operates from a children's rights framework. Children's universal human rights are articulated in the **United Nations Convention on the Rights of the Child**. Canada ratified this Convention in 1991 with written endorsement and support from all provinces and territories. The Convention is the most universally accepted human rights framework in the world today. It speaks to the social, cultural, economic, civil, and political rights of children. Children's rights are real and meaningful. When these rights are protected and respected, they help children live better lives and have improved opportunities.

Investigative Process

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

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

The investigative process may include interviews under oath, review of reports and documents, file reviews, policy analysis, legislative considerations, consultation with experts, examination of critical issues, research, and other factors and evidence that may arise in the course of an investigation.

Case Summary

This child came to the attention of the Department of Children, Seniors and Social Development (CSSD) when he was an infant. The threats to his safety included family violence, inadequate or unstable housing, as well as parental mental health and addictions concerns. Both parents had been involved in the criminal justice system. While both parents were initially involved in interventions and planning, the focus eventually shifted to working with the mother only.

The mother's former foster mother played a significant role in the child's care, and his biological grandmother also contributed to his care at times. CSSD engaged the mother's former foster mother as a care provider through safety plans, Family Centered Action Plans (FCAPs), Child Welfare Allowance (CWA) placement, kinship placement and eventually as a significant other caregiver. This occurred despite uncertainty in CSSD's support for the caregiver's role. CSSD had closed the former foster mother's home previously after investigating complaints and deemed it unsuitable. The mother's relationship with her former foster mother/her son's caregiver was often contentious and a source of conflict. She believed the caregiver was alienating her child from her. She also questioned medical services and prescription drugs that the caregiver arranged for her child without her consent.

The child's access to his mother became infrequent and supervised because of protection concerns. There was infrequent contact between the mother and social worker. CSSD eventually suspended access and assessed that it could only resume once the child had received counseling. The intent was to suspend access for one month pending the start of counseling. Counseling did not occur as CSSD anticipated and visits were suspended for a prolonged time. CSSD no longer supported reunification at this time.

A shift occurred when a new social worker assumed responsibility for this file. The social worker followed up on counseling and began to explore reinstating access. By this time, almost a year had passed and counselling had not started. The mother's frustration with her child's placement, including issues related to care, and her belief that the caregiver was alienating her child from her remained. Eventually, the mother expressed disagreement with the placement and refused to sign a new voluntary kinship care agreement. CSSD then removed the child from his mother's care but he remained in the same placement. Counselling eventually began and he subsequently had his first visit with his mother in almost a year and a half. He was five years old.

After a period of years without a permanency plan, CSSD demonstrated a renewed focus on reunification, and made a decision to support access on a weekly basis. The conflict between the mother and caregiver continued. However, file documentation reflected a better working relationship between CSSD and the mother who was now supported by community partners. CSSD engaged in active case supervision and focused on addressing concerns brought forward about the caregiver. CSSD eventually decided to return the child to the mother under a supervision order and withdrew the custody application. The mother and child remained on a protective intervention caseload up to the time of this review.

Findings and Recommendations

This investigation revealed concerns in the following areas:

- A. Placement
- B. Case Management/Supervisory Oversight

A. Placement

This investigation identified a number of difficulties with this placement. The first relates to the assessment of and suitability of the kinship placement. A kinship placement is a temporary and alternate form of care to formal foster care. It allows the child to stay connected to family and significant others while parents retain custody. It is a voluntary arrangement on the parents' part. The second concern involves the challenging relationship between the biological mother and the kinship caregiver.

I. Assessment and Suitability

CSSD had concerns about the suitability of the kinship arrangement from an early stage. In fact, CSSD did not support the use of these caregivers as part of an initial safety plan after CSSD uncovered evidence of historical concerns regarding the foster parents. CSSD had previously approved these caregivers as a child specific placement (currently referred to as a relative/significant other foster home). The home was the subject of a maltreatment investigation and CSSD removed the children during the course of the investigation and closed the home. CSSD did not document these specific concerns in this child's file, and there were only vague references in the case notes. Within a few months of deciding these caregivers were unsuitable, CSSD supported their use as alternate care for this child, with no evidence that the historical concerns had been resolved.

When this child's file was transferred from one case worker and supervisor to another case worker and supervisor there was no transfer of the concerns regarding these caregivers. This important information was not appropriately documented and there was no evidence that these concerns had been resolved. This compromised the transfer of critical knowledge necessary for case planning for the child. CSSD did not satisfactorily explain how it determined that it was acceptable to use these caregivers again. This lack of oversight laid the foundation for a significant relationship to develop between this child and the temporary caregivers.

II. Kinship Care and Family Relationships

On many occasions, CSSD reviewed and renewed the CWA/kinship agreements. The child's parents did not sign most of these agreements. CSSD explained the mother was difficult to locate. However, it also stressed that this child's care arrangement was a voluntary placement, and the parents retained custody and decision-making in both the CWA and kinship placement. CSSD maintained that this placement was part of a plan developed in collaboration with the

parents. We did not find the decision-making to be collaborative with the parents.

The mother's relationship with her child's caregivers was strained and conflictual. Her initial support for this arrangement changed and she believed the caregiver was undermining possible reunification with him. Case documents reflect that the caregiver often made negative and disparaging remarks about the mother to the social worker. The mother tried on many occasions to discuss concerns with the social worker, but felt that CSSD sided with the caregiver. CSSD did not address the issues that existed between the mother and caregiver in a timely manner. This did not benefit the child.

There was insufficient evidence to indicate that the caregivers understood their role and responsibilities in this type of care arrangement. Additionally, they did not appear to grasp the importance of supporting the child's relationship with his mother. This was not appropriately addressed. Up until his removal, his mother still maintained legal custody, yet the caregiver engaged medical and other services for this child including the treatment of challenging behaviours with prescription medication without the mother's consent. The mother questioned this, and believed her relationship with her child was undermined. CSSD did not fully explore the mother's concerns until a new social worker assumed responsibility for the file. At this point, CSSD's active review involved collaboration and consultation with other service providers. It then received conflicting information regarding the child's behavior from the professionals and that put forth by the caregiver.

B. Case Management/Supervisory Oversight

This investigation identified deficiencies in case management in several areas including supervision, monitoring and evaluating progress, permanency planning and collaborating with other service providers.

I. Supervision, monitoring and evaluating progress

CSSD did not effectively coordinate and monitor counselling services for the child. As a result, he experienced a significant delay in receiving mental health services, which caused lack of contact with his mother for a prolonged period of time in his young life. CSSD stopped visits and required the child receive counselling services before visitation could resume. It did not explore private counselling options to expedite access for this young child. He did not see his mother until almost a year and half later. There was limited follow up regarding the child's access to these services, until a new social worker assumed responsibility for this file.

There had been no Family Centered Action Plan (FCAP) developed with the family during this time. As a case management tool, an FCAP would have identified progress and delays. The file review revealed that there was a period of almost three years without a review or completion of a new FCAP. According to CSSD, the mother was difficult to contact and showed little commitment to working with the department. Furthermore, CSSD noted in the file that an FCAP was not necessary after it made a decision to no longer support reunification. CSSD

made this decision four months after making the decision to cancel visits. Interestingly, the file indicated that the mother was actively involved with CSSD during some of this time and was in fact seeking support from outside agencies including the Office of the Child and Youth Advocate to reinstate access.

II. Permanency planning

This investigation identified significant issues with permanency planning. According to the documentation reviewed, there appeared to be little focus on a permanent long-term plan for this child until a policy change dictated that children in a kinship arrangement beyond 12 months require an assessment of the possibility of reunification. There is no evidence that such an assessment was completed, nor any evidence of an updated risk assessment. CSSD decided to consider a long-term kinship placement for this child around the same time as the decision to cancel visits with the mother.

By this time, the child was more than three years old. CSSD had not completed a formal case review using the Risk Assessment Instrument in more than 16 months prior to this decision. The policy on case reviews and risk assessments at that time was every six to nine months depending on risk rating. CSSD decided that this child had been in the care arrangement beyond 12 months and that reunification was no longer possible. CSSD cited the mother's lack of involvement as evidence in support of this decision. However, the sad irony is that the mother's lack of involvement with her child was directly related to a decision made by CSSD to stop visits between mother and child.

A kinship review completed at this time identified the child's permanent plan as staying with his caregivers long term. CSSD reported the mother was not party to this kinship agreement because it was unable to locate her after multiple attempts. File documents did not support this explanation, as there was evidence in the case notes of contact with the mother in the month prior to the kinship review and shortly after the review. In fact, the mother presented at CSSD within seven days of the kinship review requesting information about why she was unable to have contact with her child.

III. Lack of collaboration

CSSD relied heavily on caregiver reports that the child demonstrated negative behaviors, without engaging in sufficient efforts to verify the information. Early in this placement, the caregiver expressed that the child demonstrated challenging and aggressive behaviors that increased after visits with the mother. Our file review showed little evidence of collaboration with other professionals in understanding or verifying his behaviours. The main source of information regarding these behaviours came from the caregiver. The mother's claims of inappropriate care and parental alienation by the caregiver were not fully explored and did not occur until the mother had developed a better working relationship with CSSD. When CSSD actively sought information from other professionals involved with the child, the resulting information contradicted the caregiver's claims.

Recommendations

Recommendation 1

The Department of Children Seniors and Social Development include an assessment of the nature and quality of the relationship between the caregiver and birth parent(s) as part of any Kinship Home Assessment.

Recommendation 2

The Department of Children Seniors and Social Development ensure that Kinship caregivers have a clear understanding of their role and responsibilities and that a Kinship Care Agreement review include a verification of the caregivers understanding of this role.

Recommendation 3

The Department of Children Senior and Social Development develop an enhanced planning and monitoring policy for Kinship Care that ensures adequate support and intervention to deal with complex relationships with the biological family. This must include additional training for kinship caregivers where required.

Recommendation 4

The Department of Children Seniors and Social Development implement steps to ensure policy compliance regarding supervisory documentation in the file including documentation of critical decisions and supervisory oversight, as well as rationale and evidence for decisions.

Recommendation 5

The Department of Children Seniors and Social Development ensure that planning for a child's complex needs (e.g. emotional, behavioral, and medical) include consultation and planning with family and other professionals providing services to the child.

The Office of the Child and Youth Advocate notes that the following recommendation from a previous investigative report entitled **No Second Chance** (2018) is relevant for this investigation and must be fully implemented:

Recommendation 4: The Department of Health and Community Services, the Regional Health Authorities and the Department of Children Seniors and Social Development collaborate to enhance the availability of mental health and addiction services throughout the province for children, youth, and their families with a particular focus on children and youth deemed at risk and in receipt of protective services.

The Office of the Child and Youth Advocate has also identified concerns with policy compliance for completing Family Centered Action Plans and Risk Assessments, as well as the degree to which Risk Assessments were used to inform decision-making.

Over the timeframe this investigation covered, CSSD has made changes to improve these processes. The Office of the Child and Youth Advocate will continue to monitor these issues on an individual and systemic level.

Conclusion

Every child in Newfoundland and Labrador has specific rights under the **United Nations Convention on the Rights of the Child**. This means that children are rights holders. However because of their age and vulnerability, they cannot enforce these rights or access remedies and have their voices heard without the help of adults. This requires commitment and diligence by the adults and service providers in children's lives to uphold these rights. This means government is a duty bearer of those rights. Children have the best chance of living a quality life, developing to their potential, and living in an environment where their well-being and best interests are paramount when their rights are advanced and protected. There is a direct impact on children's daily lives and future opportunities when their rights are respected. Child rights are not abstract. They are very real in the life of a child.

The child who was the focus of this report was born into a trauma filled family. However, Child Protection's response did not provide the positive interventions one should expect and hope. Alternate care arrangements involved a caregiver's home who had previously been closed due to inappropriate treatment of children. The small child was unable to have visits with his mother for a year and a half because Child Protection did not arrange counselling services for him that it required before contact could resume. There were ongoing delays in responding to the mother's concerns that the caregiver was alienating the mother-child relationship. The contentious relationship between mother and caregiver was not addressed. There was a lack of timely collaboration with other professional and service providers in the child's life to verify or inquire about information that the caregiver provided about the child's condition and needs. The caregiver accessed medical services and drug treatments on behalf of the child without authority and this was not addressed expeditiously. Knowledge about the child or the caregiver's history was not appropriately transferred and shared.

A core principle of the Convention is that all decisions about and for children must be in their best interests. This investigation has identified decisions and processes that were clearly not in the best interests of this child. He deserved better.

Appendix I: References and Resources

Government of Newfoundland and Labrador Department of Children, Seniors and Social Development. (2013). *Risk Management Decision-Making Model Manual*.

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

Appendix II: Investigative Documents and Interviews

Documents Reviewed

Department of Children, Seniors and Social Development

- Protective Intervention File
- In Care File
- Kinship File
- Significant Other Foster Home File

Department of Health and Community Services

- Regional Health Authority File

Department of Education

- School District File

Investigative Interviews

Office of the Child and Youth Advocate

193 LeMarchant Road, St. John's, NL A1C 2H5

Email: office@ocy.nl.ca

Twitter: @OCYANL

Telephone: (709) 753-3888

Toll Free: 1-877-753-3888

Fax: (709) 753-3988



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NEWFOUNDLAND & LABRADOR