

# NO SECOND CHANCE

The Office of the Child and Youth Advocate

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CHILDREN YOUTH  
NEWFOUNDLAND & LABRADOR

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## Message from the Child and Youth Advocate

Under my authority and duty as defined in the *Child and Youth Advocate Act*, I am providing the following Investigative Review regarding the services to a child who was involved in protection services before an untimely death. The focus of this investigation has been to determine the appropriateness of services, and whether the child's rights had been upheld during the nine months of involvement with the Department of Children, Seniors and Social Development prior to the child's death. The circumstances of the tragic incident of the death were a matter for police investigation.

I have made every effort to ensure this report does not identify this child, and I take this responsibility very seriously. I request that readers and the media respect this privacy and not focus on the individual identities or location. The purpose of this report is to learn from these sad circumstances and to make improvements for other children in the future.

Nothing can be more difficult than losing a child and a grandchild. As the title reflects, sometimes there is only one chance to get things right. Children are vulnerable and life is fragile. This report provides a heartbreaking account which is hard to read. I offer my sincere condolences to those who loved this child.



**Jacqueline Lake Kavanagh**  
**Child and Youth Advocate**



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## Case Summary

This investigation involves a young child who endured many traumatic events in a short life, and whose involvement with child protection and mental health services did not see the child's needs met before an untimely and tragic death. This child lived in a violent home, experienced trauma, suffered neglect, frequently changed schools, was placed in foster care, and had a mother who struggled with alcohol and drug addictions while involved in successive violent relationships. Services and supports to this child as well as to the mother were lacking up to the time of their deaths. The police investigated the circumstances of the tragic incident where the child, mother, and mother's boyfriend all died. The Department of Children, Seniors and Social Development (CSSD) had been involved for approximately nine months before the child's death.

CSSD received its first referral in this matter after the mother was arrested for impaired driving and possession of illegal drugs. CSSD's investigation also revealed that the mother's boyfriend had a history of violent offences, convictions, and other outstanding charges. Shortly afterwards additional referrals were made to CSSD. The child was registered at a fourth school in four months, and the boyfriend had attended the school while intoxicated. When CSSD approached the mother and her boyfriend about signing a Safety Plan for the child, the boyfriend refused saying he did not intend to be a prisoner in his own home. Within weeks, the police responded to a late night violent incident between the mother and boyfriend. CSSD received another referral. During the incident, the boyfriend threatened the lives of both child and mother. The child was present and witnessed this confrontation. Officers transported the child and mother to a transition house. Police arrested the boyfriend on charges of uttering threats and removed firearms from his house. During the investigation, social workers learned the boyfriend was regularly verbally abusive to the child. The child also disclosed to the social worker that the boyfriend said he would blow the child's mother's head off.

Several weeks after the violent incident, the mother informed CSSD that she and her child would be moving back in with her boyfriend. CSSD obtained a warrant from Supreme Court to remove the child, who was found to be in need of protective intervention as per Section 10(1) of the *Children and Youth Care and Protection Act* (SNL 2010 c. C-12.2). The child was placed in care and CSSD applied to court and obtained a six month temporary custody order.

The child lived with a foster family for approximately six months. During that time, the mother's access moved from supervised, to semi-supervised, and ultimately to unsupervised visits with her child. The mother's boyfriend was incarcerated for most of that

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time; however, the mother and boyfriend maintained their relationship with frequent phone calls. The mother consumed marijuana and continued to live alone in her boyfriend's house.

Towards the end of the temporary custody order, and shortly after her boyfriend was released from prison, the mother moved from her boyfriend's house into her parents' home. CSSD appeared in court and presented an application that circumstances had changed such that an order was no longer required to declare the child in need of protective intervention. The court rescinded the temporary custody order and returned the child to the mother's care. No subsequent order was put in place. Tragically, days after the order was rescinded, the child, mother, and boyfriend died together in a tragic incident.

CSSD considered the living arrangement with the child's grandparents to be a protective factor. This was a significant consideration in deciding to return the child to the mother's care. CSSD reported that it told both the child's mother and grandparents that the boyfriend was not to be in the child's presence, and that CSSD must be advised immediately if the child and boyfriend came into contact. This arrangement was not recorded in any new agreement with any of the parties. CSSD relied on an outdated Family Centered Action Plan (FCAP) and Risk Assessment Instrument (RAI), as well as verbal assurances from the mother and grandparents that the child and boyfriend would remain apart. In conducting this investigation, OCYA investigators heard that the grandparents did not appear to have clearly understood the specific expectations of them. The lack of a formal agreement and the lack of a corresponding clear understanding by all responsible for the child's protection was a critical issue with regard to the child's safety.

The events in this young child's life clearly indicated a child living with trauma. While CSSD arranged a mental health referral for professional counselling services, the child had still not received the services at the time of the child's death due to lengthy wait times and lack of communications between CSSD and the Regional Health Authority about changes in the child's circumstances.



## Findings and Recommendations

The Child and Youth Advocate has identified three primary systemic areas for improvement as a result of this investigation. The first involves CSSD's practices to ensure appropriate and timely monitoring, assessment, and reporting of court ordered conditions, as well as adherence to its policy and documentation standards. The second area addresses the importance of timely access to mental health services for children and youth. The third issue involves the appropriateness of placing (elderly) grandparents in protective roles with their grandchildren without appropriate risk assessments, and without clearly defined and understood plans for the child's safety.

### a. Appropriate Case Management and Planning

When a child is returned from care, a safe and stable environment is very important. In the two to three month period prior to the child's death, and while deciding whether to return the child to the mother's care, CSSD attempted to balance potential threats to the child's safety with overall wellbeing. The mother's issues with drugs and alcohol were considered, as was her commitment to maintaining her relationship with her boyfriend. These potential harms were mitigated in the context of the mother and child residing with the grandparents and them assuming a protective role, and the mother's willingness to participate in counselling.

This investigation revealed that the risks that existed when the child entered care, including drinking, drugs, and a violent partner relationship, remained present when the child was returned to the mother's care. CSSD received multiple reports of the child's mother buying alcohol. The mother also continued to struggle with illegal drug use in the period preceding her child's return. There were multiple drug tests, with two positives, one negative, and the final results of a drug screen were not known. While the mother had completed a ten session family violence counselling program, she still appeared to minimize the violence and lacked insight to her own vulnerability and that of her child. She had completed the intake process only and was awaiting an addictions assessment, a condition of the court order. CSSD indicated she had been removed from the waitlist by the time of her death, however it was confirmed that she had been taken off the waitlist pending the scheduling of her first appointment at the time of her death.

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In conducting this investigation, the Office of the Child and Youth Advocate found that there were inconsistencies in information available to its investigators, and with information provided to the court.

- The mother was clearly in an abusive relationship which had implications and risk for her child. However this information does not appear to have been explicitly stated to the court, in either the written application or at the appearance to rescind the temporary custody order.
- Several unfulfilled conditions of the court order were not clearly identified to the court. These included:
  - While there were orders to abstain from alcohol and illegal drugs, drug tests had indicated usage. Multiple witnesses reported seeing the mother purchasing and consuming alcohol over time.
  - While the mother was expected to access counselling, this did not occur for all counselling identified.
  - While CSSD did not support contact with the mother's boyfriend, contact occurred.
  - While the mother was expected to cooperate with CSSD, there were numerous examples throughout this file that demonstrated a lack of cooperation. Some of this likely reflected the dynamics in the abusive relationship with the boyfriend. However CSSD was aware that she had not been forthright about alcohol and drug use, and about ongoing contact with her boyfriend. She minimized and downplayed his impact on her child. While more timely counselling services may have enabled a more insightful response on the mother's part, her lack of cooperation and personal struggles were clear.

A significant issue related to the court ordered conditions is access to counselling services. This speaks to the heart of supporting families to become healthy and to be able to care for their children when reunification is the ultimate goal. The mother was required to engage in parenting counselling services and receive an addictions assessment and to follow any recommendations from the assessment. She was ordered to attend counselling for family violence issues and she completed ten sessions. The court order also required the mother to consent to her child attending counselling services. Although CSSD indicated the mother was willing to participate in counselling and to consent to her child's participation, she and her child were each waitlisted.

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At the time, several options would have been available to CSSD, if it had determined that the child should not be returned to the mother's care. These included:

1. Application to court for a supervision order;
2. Application to court for a prohibitive contact order;
3. Recommend that the child be placed with a person significant to the child and under the manager's supervision;
4. Placement in a foster home.

This discussion raises three key questions:

1. Did the Court have the most current information available when making decisions about this case?
2. Had CSSD completed due diligence in scrutinizing the status of court ordered conditions before going back to court to rescind the temporary custody order?
3. Were options available to provide better access to counselling services for the child and mother?

## **Recommendation 1:**

**When considering an application to rescind a temporary custody order, the Department of Children, Seniors and Social Development must thoroughly review and document status of existing court ordered conditions including non-compliance. This must occur and be formally confirmed before the application is advanced to the court.**

### **Department of Children, Seniors and Social Development Response:**

*“The Department of Children, Seniors and Social Development (the Department or CSSD) fully accepts this recommendation. Current policy reflects the importance of assessing changes in family circumstances and engaging in supervisory consultation when making reunification decisions for children. In March 2018 and since this case matter, the Department has implemented a new practice model for the Protective Intervention Program (Structured Decision Making) that we are confident will assist in improving practice and strengthening clinical decision making. This model includes*

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*a Reunification Assessment tool that supports social workers in making critical case management decisions for children in out-of-home placements and assists with determining whether the child can be returned home through a consideration of current risk factors, quality and quantity of parent-child visitation, current safety threats and the overall case planning and permanency needs of the child.”*

## **b. Risk Management and Supporting Documents**

Policy 2.23 from the CSSD *Protection and In Care Policy and Procedure Manual* (June 30, 2011) required the completion of a Risk Assessment Instrument (RAI) “... for any child who is returned home while in the custody of a manager.” The purpose of the RAI is to determine whether the child can return safely. The CSSD *Risk Management Decision-Making Model Manual* (2013) identified that a social worker in consultation with a supervisor complete the RAI to assess aggravating and mitigating risk factors affecting the child. Risk factors including parental, child, family, maltreatment, and response to interventions must be assessed by the social worker to ultimately make a clinical assessment with regards to each risk factor. In contravention of policy, an RAI in this case was not completed prior to the child being returned to the mother.

The CSSD *Protection and In Care Policy and Procedure Manual* (2011) identified that when a child is returned while in the manager’s care, “The social worker shall revise the Family Centred Action Plan to reflect how the risk to the child has been reduced ...” as well as “... identify any interventions required to adequately protect the child.” Social workers completed a Family Centred Action Plan (FCAP) shortly after the child was initially removed and the mother signed it several weeks later upon review with the social worker. The FCAP was reviewed with the mother prior to her child returning to her care. However, it was not revised to account for the child’s return; nor was it updated with changes relevant to the new living situation. The lack of a revised FCAP was particularly troubling in this case given the central role the child’s grandparents were to play in protecting the child. According to CSSD notes, the social workers talked to the mother and the grandparents about safety concerns for the child once the child was to start living at the grandparents’ house and they were advised to report any contact with the boyfriend.

“ The family’s lack of involvement in jointly creating the FCAP plan was problematic. ”

The family’s lack of involvement in jointly creating the FCAP plan was problematic. The family’s participation in the plan, their understanding of the risk, and clearly comprehending their commitment and responsibilities would be critical to success.

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The extent to which the grandparents understood their role and the degree to which CSSD was relying on them is unclear. During this investigation, there was confusion identified among family members about the exact expectations on the family, and CSSD could not produce a revised plan that the family had signed. While the grandparents did not allow the boyfriend into their home, they believed they had limited ability to control the overall situation as evidenced by one of the grandparent's statement:

*"... there's nothing I could do about it.....What am I supposed to do about it? You know, I had no papers on [child] or nothing like that and she was the child's mother.... I couldn't do anything about it. I had nothing, nothing to stop it..." (Transcript of OCYA interview, 2016, pp. 44-45).*

Despite the grandmother's knowledge that the boyfriend presented a risk and that he was not to be around her home, the grandmother did not feel she could stop the mother from taking the child away with the boyfriend; nor did the grandmother contact CSSD to alert them that the child had gone somewhere with the boyfriend. When OCYA interviewed the child's grandmother, she explained that she understood that if the boyfriend were to come to her house then she was to tell him he could not come in. And she did this. If a properly revised FCAP had been planned and signed with the grandparents and mother, this would have clearly communicated CSSD's expectations of all parties. Jointly completing a revised FCAP would have clearly highlighted the safety concerns for this child as well as identified expectations and responsibilities for all parties. This investigation identified an incomplete and poorly documented risk assessment and plan for the child's safe return to the mother's care.

“ This investigation identified an incomplete and poorly documented risk assessment and plan for the child's safe return to the mother's care.”

## Recommendation 2:

**The Department of Children, Seniors and Social Development ensure policy compliance in requiring all FCAPs to be jointly developed and signed with the family, and verified by the supervisor.**

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## Department of Children, Seniors and Social Development Response:

*“The Department fully accepts this recommendation and recognizes the importance of working collaboratively with families to formulate plans that are reflective of the risk posed to children deemed in need of protection. The Department recently trained staff in a new practice model (Structured Decision Making) which emphasizes the importance of collaboration with families in the development of case plans. Included in this model is the Family Strengths and Needs Assessment tool that examines family’s strengths and the needs they are facing as we work to create safety, permanency and well-being for children. Regional management will ensure that discussions occur with front line staff regarding the policy requirement for FCAP’s to be jointly developed with families.”*

### c. Access to Mental Health Services

This child experienced living in a violent home where there was substance abuse and neglect. The child faced numerous moves in such a young life, including changing residences, living with a foster family, and relocating to multiple schools. While social workers sought counselling services, the child was still waitlisted at the time of death approximately six months later.

“ While social workers sought counselling services, the child was still waitlisted at the time of death approximately six months later.”

The Regional Health Authority’s (RHA) policy provided for collaboration with child protection services to ensure changes in a child’s plan or situation could be jointly reviewed. The RHA letter placing the child on a waitlist instructed CSSD to make contact if circumstances changed. The child was in a foster home when placed on the waitlist, but was returned to the mother’s care while still on that waitlist. The collaboration envisaged in the policy did not occur because the RHA was not made aware of the child’s changed circumstances. According to the RHA, if CSSD had alerted them that circumstances were changing such that the child was being returned,

then the child’s priority status may have been adjusted so as to receive mental health services in a timelier manner.

In *Towards Recovery: A Vision for a Renewed Mental Health and Addictions System for Newfoundland and Labrador* released in March 2017, the All-Party Committee on Mental Health and Addictions noted that children in the child protection system were being negatively impacted by difficulties in accessing mental health and addictions services. The Committee also noted a significant uptrend in the number of people on waitlists for mental health and addictions counselling. The Committee recommended that the Government of Newfoundland and Labrador develop a

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wait time reduction action plan, adopt a standard methodology for recording and reporting wait times, and, direct the chief executive officer of each Regional Health Authority to reduce wait times for mental health and addictions services. The Government of Newfoundland and Labrador accepted all 54 recommendations.

### **Recommendation 3:**

**The Department of Children, Seniors and Social Development ensure best possible access to mental health services for children by ensuring timely updates to RHA mental health service providers when there are planned changes in a child's circumstances.**

#### **Department of Children, Seniors and Social Development Response:**

*“The Department fully accepts this recommendation. CSSD’s existing policy and practice standards promote ongoing collaboration with community partners to ensure quality service provision for children and families. Social workers are required to arrange case conferences for children in care that include members of the in care planning team such as the child’s family and relevant professionals or community supports. CSSD policy requires information sharing among members of the in care planning team particularly when there has been a change in a child’s circumstances that may require modifications to the case plan. Regional management will ensure that discussions occur with front line staff about the importance of timely updates to service providers when there are planned changes in a child’s circumstances.”*

### **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 addictions 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.**



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**Department of Children, Seniors and Social Development Response:**

*“CSSD will collaborate with the Department of Health and Community Services to enhance the availability of mental health and addictions services to children, youth and their families, with a focus on children and youth at risk and in need of protective intervention. Officials in both departments have been in contact and a meeting has been scheduled on this matter.”*

**Department of Health and Community Services Response:**

*“The Department of Health and Community Services supports this recommendation. As part of the Towards Recovery Action Plan, HCS has established a Service Redesign Project Team with a Child, Youth and Emerging Adults Working Group. This group includes young people as well as representatives from the departments of Health and Community Services, Children, Seniors and Social Development, Regional Health Authorities, and community agencies. The working group’s primary goal is to increase access to mental health and addictions services for young people throughout the province, including children and youth deemed at risk and in receipt of protective services.*

*Other initiatives under the Towards Recovery Action Plan that support this recommendation include, but are not limited to, a new stepped-care approach to service delivery, e-mental health services, new and expanded community-based services throughout the province, and a wait time reduction plan.”*

**Regional Health Authority Response:**

*“During the past year, ... [the Regional Health Authority] has significantly increased access to services by reducing wait times and the overall number of clients waiting. The median wait time for services has been reduced from 41 to 30 days through the implementation of a number of initiatives. The Mental Health and Addictions program will continue to assign priority based on the presenting issue and risk, ensuring the clients at higher risk are seen sooner than those of lesser risk. ... [the Regional Health Authority] will continue to work collaboratively with the Department of Health and Community Services, the other Regional Health Authorities and the Department of Children, Seniors and Social Development as well as community partners to enhance the accessibility of mental health and addictions services.”*



# Conclusion

The Office of the Child and Youth Advocate investigates matters to identify whether children's rights have been met and protected. These rights are identified in the United Nations *Convention on the Rights of the Child*. Canada is a signatory to this convention with support from all jurisdictions when it was signed. These rights guide our work. In this investigation we identified a number of rights to which this child was entitled but which had fallen short in a significant way. Some of these include Article 19 which references the right to be protected from hurt and mistreatment, both physically or mentally. Article 20 references special care and help when a child cannot live with their parents. Article 24 references the right to the best possible health care and to live in a safe environment. Article 39 identifies the right to help when a child has been hurt, neglected or badly treated. These rights had not been satisfactorily upheld for this child.

Adults have decision-making power over children. This is a heavy responsibility. However the weight increases when children are vulnerable due to violence and neglect and require government intervention and protection to ensure their well-being. It is important to be constantly vigilant to ensure these government services, responses and protections work well. They did not work well in this case. There are four recommendations in this report to guide necessary improvements. The Office of the Child and Youth Advocate will monitor and report on and follow all recommendations until they are appropriately addressed.

# Appendix A

## References

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# Appendix B

## Investigative Documents and Interviews

### Investigative Documents:

#### Department of Children, Seniors and Social Development

- Family's Protective Intervention file

#### Department of Education and Early Childhood Development

- School District file

#### Department of Health and Community Services

- Regional Health Authority
  - Mental Health and Addictions Services: Child's file
  - Mental Health and Addictions Services: Mother's file

#### Department of Justice

- Royal Canadian Mounted Police records

#### Supreme Court of Newfoundland and Labrador

- Court filings
- Transcript of court proceedings
- Court Order

### Investigative Interviews:

- Staff from the Department of Children, Seniors and Social Development
- Family members







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