

**DIRECTOR'S CASE REVIEW:
DEATH OF S.C. A CHILD NOT IN CARE
April 26, 2005**

FINAL

Reviewer: Nicholas Simons

I. INTRODUCTION

1.1 Purpose of the Review

The purpose of this review is to examine the involvement of Usma Nuu Chah Nulth Community and Human Services (Usma *or* the Agency) and the Ministry of Children and Family Development (the Ministry *or* MCFD) in the case of a child and her family to ensure that policy and practice requirements as related to planning for her care were met. The child and her family were well known to Usma and to the Ministry. The child and her brother were living with _____ under a Kith and Kin Agreement at the time of her death. The review was asked to examine the overall case management of the Agency's involvement with respect to child protection and selection and approval of the Kith and Kin Agreement as well as the information sharing process between the Agency and the Ministry.

1.2 Terms of Reference

The following are the Terms of Reference for this review:

- 1) Was the response of Usma Nuu Chah Nulth Community and Human Services to the child protection concerns associated with the [family] consistent with established standards?
- 2) Was the decision to facilitate the entering of the *CFCSA* s.8 Kith and Kin Agreement between [the mother] and [the Kith and Kin caregiver] in the children's best interests?
- 3) Did Usma Nuu Chah Nulth Community and Human Services agency staff follow the July 2002 Draft 'Practice Guideline for Section 8 Agreements - Aboriginal Agencies'?
- 4) Was the information sharing process between the Ministry of Children and Family Development, Vancouver Island Region and the Usma Nuu Chah Nulth Community and Human Services agency with particular respect to the sharing of information regarding the [Kith and Kin Caregiver] family adequate to ensure the safety of the children in the Kith and Kin placement?

1.3 Methodology

All the _____ files associated with this case were reviewed. The child's mother had two _____ files, one with MCFD, and one with Usma. There was also information about the mother on the _____ file, which was reviewed because _____ became the child's Section 8 (Kith and Kin) caregivers where she later died.

Interviews were conducted with Ministry and the Agency Social Workers and their Supervisors who had conduct of the child's file either as child protection social workers or who had involvement with the planning for the Section 8 (Kith and Kin) Agreement.

Interviews were also conducted with the RCMP and Coroner, both at the Port Alberni RCMP detachment and by telephone.

1.4 Chronology

The child was born on January 17, 2001, the second of two children of the mother, (19) and the father, (27). The parents' first child "the brother", was born on 1999. The family lived intermittently in Ahousat, Port Alberni and Victoria.

The Agency first became involved with the child's family was in May 1999.

There were 11-intake reports documented by the Agency relating to S her brother and her mother and father between May 1999 and August 2002. A detailed analysis of the intakes is contained in Section 2(a) of the findings. The key concerns documented in the intakes were An on-going file was first opened in May 2002, due to concerns

1.5 Section 8 Kith and Kin Timeline

After receiving the August 12, 2002, intake, the Agency decided that The child was placed in home on August 14 by her mother. The social workers were not involved in moving the child and received no notice of this move. On August 14th, the Agency social worker and supervisor decided that both children should be together.

Various family placements were considered and ruled out. Agency staff settled on The idea was then put forward to the proposed caregivers who were willing to look after the two children. A family meeting confirmed this plan with the mother in full agreement, with the expectations that she would

plans were being made to formalize a Section 8 Agreement with the caregivers. The female caregiver, had a recent Criminal Record Check completed that was given to the Agency social workers on August 13th. On the day of the child's placement with the caregivers, there was a discussion between MCFD staff and Agency staff regarding a Section 8 agreement.

MCFD agreed to provide funding for the agreement. According to case notes, the Agency social worker told MCFD that the male caregiver had already gone in to have a criminal record check completed. On August 20th the Agency received, by fax, a Prior Contact Check (PCC) from

MCFD. The Agency placed the brother with the caregivers on August 21, 2002. They received the first reference check on the caregivers on August 21, 2002.

The reference check was very positive and raised no concerns about the caregiver's ability to care for the children. On August 26, 2002, the caregivers signed the Section 8 agreement. On August 30th the male caregiver, signed the consent for disclosure of the criminal record.

1.6 Events Following the Child's Death

The child died on September 4, 2002. She was 18 months old at the time of her death. The explanation for the death (reported by the investigating police officers from the Port Alberni RCMP detachment) was that she was pushed down five stairs by her older brother during what was described as a "sibling fight" and died as a result of her injuries.

Immediately following her death, the Agency considered moving the child's brother from the home,

After the child's death, an investigation was conducted by the Ministry to determine the safety of the other children in the caregivers' home. The investigation was opened on September 8, 2002 and was concluded on November 8, 2002. The Ministry interviewed all of the children in the home. They described a positive home life. A collateral check with a pediatrician indicated that was doing extremely well. The investigation concluded that the children were not in need of protection. The pathologist began the autopsy at BC Children's Hospital on Friday, September 6th, but stopped when full-body x-rays indicated the nature and extent of the injuries could not be explained by a fall down stairs. The RCMP was requested to attend during the completion of the autopsy where they took notes, photographs, and gathered information. On September 11, 2002, the Coroner met with the Agency Director and social worker. According to the Coroner's Office, the Agency was advised that there were "issues regarding other injuries found during the autopsy." The Coroner also met with the Supervisor of the local MCFD office on September 17, 2002 to discuss the case.

On October 31, 2002, the Agency Supervisor was provided with a confidential summary of the "preliminary autopsy findings."

On January 17th, 2003, four months after the child's death, the Coroner released the official pathologist's report indicating that the child's cause of death was homicide. The RCMP met with the Coroner on January 21st and began a homicide investigation. At that time the Ministry also immediately re-opened its own investigation. The Usma Child Protection Supervisor met with the RCMP and the Coroner on January 24th, and was informed of the results of the autopsy.

Following a discussion with the local Ministry office, plans were made to remove the brother. He was removed from the caregivers' home on February 3rd, 2003.

1.7 Context

Ahousat, where the child lived for part of her short life, is a small First Nation's community located on Flores Island. Water taxis and twice-daily ferry service allows residents to travel to and from Tofino approximately 40 minutes away. The Ahousat Band has an on-reserve population of just over 600 people, while another 500 members live off reserve. Floatplanes can also be chartered to and from the island. Ahousat is mostly a fishing community with some forest industry. The tourism industry is expanding due to its proximity to Clayoquot Sound.

There are no delegated social workers in Ahousat, although the Band employs two family support workers who live full-time in the community. Sometimes the family support workers assist the delegated Social Workers when they visit, usually about once per week, but they are not employees of the Usma Nuu Chah Nulth Agency and have no authority under the *CF&CS Act*.

The challenge of social work in small, often isolated and sometimes insular communities cannot be overstated. Social workers who provide service in such communities are presented with emotional, societal, and physical impediments to their work unlike those faced by workers in urban, or even other rural communities. Social workers describe enjoying the work in small communities despite the inherent difficulties that exist including transportation, communication and safety issues. They do not have access to vehicles when they travel, and their cellular phones do not work.

Social workers travel to communities like Ahousat on a regular basis. However, this is a challenge due to distance, time and the lack of financial resources. Once in the communities, they are often faced with resistance from community members who might be afraid that their identity as a reporter or collateral source of information will be revealed. When social workers are scheduled to visit any small, isolated community, parents or others who want to avoid the workers can simply make themselves unavailable until they leave. These factors create barriers to meeting the operational and practice requirements.

Communities where First Nation's child welfare agencies operate on the whole have higher levels of unemployment, substance abuse, poverty, infant mortality, and every other indicator of below average living conditions. These indicators affect every decision made by social workers who are involved in making child welfare judgements in the context of the community's standards.

Finally, the resources available to social workers in small isolated communities are often woefully inadequate; there are often waiting lists for alcohol and drug treatment programs, day care facilities are inadequate, family support programs do not address underlying social

problems. The lack of resources and the isolation result in agencies having difficulty supervising the progress or lack of progress having a family is making. This is exacerbated by the absence of professional, delegated or trained social workers in the community.

II. ANALYSIS AND FINDINGS

1) Was the response of Usma Nuu Chah Nulth Community and Human Services to the child protection concerns associated with the [family] consistent with established standards?

Finding: The Agency's response to the child protection concerns was not fully consistent with established standards.

Discussion: This finding is based on an analysis of 11 intake calls the agency received with respect to the child's care prior to the Kith and Kin placement. The Agency's response to the protection concerns met many but not all of the established standards. As the detailed review of the intakes suggest, there was some inconsistency in the adherence to standards, although there was clear evidence that practice was improving significantly over the period under scrutiny. The standard regarding supervisory consultation does not appear to be met in the earlier intakes. This standard was more consistently met in the later intakes. In the last three intakes in July and August 2002, prior to the Kith and Kin agreement all the established standards were met. The failure to meet all standards did not impact on the final outcome of this case.

Intake Reports and File Openings –Detailed Analysis

The intakes reviewed below consist of those registered by the Agency as well as those registered by the MCFD.

INTAKE - NTC

CONCERN TYPE:

RISK:	Not Documented
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CALL DATE:	, 1999
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CLOSING DATE:	June 10, 1999
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Report:

Response:

File Analysis:

PRACTICE STANDARDS

Social worker NTC2 indicated on the "Face Sheet" that the file was opened on _____ 1999 with the concern being _____. Elsewhere, on the "Contact Notes Report" and the "File Details Report" the date of the intake call was documented as _____ 1999.

The Initial Assessment from that date contained one sentence in a section called "Synopsis". It reads:

While the reporter was identified, no evidence or dates of the alleged concerns was noted, the precise nature of the _____ concern was unknown, and information about the characteristics of _____ was missing.

There was no documentation of a consultation with the supervisor when deciding whether to investigate a report as required in **Practice Standard _____**. Consultation was not documented until the assessment/investigation was completed. The worker's initial response to the report, **Practice Standard _____**, did not meet standards. The information provided was inadequate and the failure to gather more information impeded the social worker's ability to complete an adequate assessment. There was no evidence of a PCC on file as required in **Practice Standard _____**. The social worker's lack of recording on the results of _____ assessment appears to be a serious breach of **Practice Standard _____**. Basing a decision on an inadequate assessment did not allow for adherence to **Practice Standard _____**, determining whether or not to investigate.

On June 04, 1999 the social worker noted that the office has received "the Ministry" file. However, there is nothing that looks like a Ministry file in the Agency's records, and there is no Ministry record of previous involvement noted on MCFD's file management system. What does exist is a one-page, hand-written, unsigned, and un-dated note

On June 04, 1999, the social worker consulted with _____ supervisor before closing the intake. The assessment appears to have taken over a month, and was signed off by the supervisor nine months later.

Conclusion:

There are many problems with this intake, in terms of its adherence to established standards. Social workers must document their sources of information as well as the date that the information is received. In this case, it is impossible to determine when _____ were interviewed, who _____ was, or if any other collateral checks were completed _____.

_____ If the social worker's information was gleaned from a Ministry file, either the file was lost or the file was the one hand-written piece of paper referred to above. In either case, the file referred to has never been registered on the MCFD file management system

(SWS MIS). There was no documentation of a file being opened by the Ministry until fifteen months later, in August of 2000 when a file was first registered.

INTAKE - NTC	CONCERN TYPE:
	RISK: Not Documented
	CALL DATE: 1999
	CLOSING DATE: July 18, 1999

Report:

Response:

File Analysis:

PRACTICE STANDARDS

The file "Face Sheet" indicates an "Intake – Investigation". What was actually documented in the file is an assessment of the report. There was no indication that consultation with the supervisor took place contrary to Practice Standard , or if a PCC was conducted, contrary to Practice Standard .

Conclusion:

While the social worker determined that determine why was dismissed when it was confirmed that

it might have been useful to The information

INTAKE – NTC	CONCERN TYPE:
	RISK: Not Documented
	CALL DATE: 1999
	CLOSING DATE: December 13, 1999

Report:

Response:

File Analysis:

PRACTICE STANDARDS

The After-hours memo should have been included in the file; this may or may not be indicative of a problem with inter-agency communication, an expectation of **Practice Standard** . There were no signatures of supervisors, contrary to **Practice Standard** , no PCC contrary to **Practice Standard** , and no indication of collateral checks. **Practice Standard** was not adhered to as the social worker failed to “record and report the results of the assessment.”

Conclusion:

There was very little documentation of any actual assessment. Keeping all documentation on the file is very important, as it would assist any future social worker involved with the file.

INTAKE - NTC	CONCERN TYPE:	
	RISK:	
	CALL DATE:	2000
	CLOSING DATE:	September 13, 2000
(MCFD	NATURE OF CALL:	
	DATE:	2000

Report:

Response:

File Analysis:

PRACTICE STANDARDS

According to the "To Do List" on the file, NTC3 completed a contact with the child, with the parents, with significant others, had supervisor, and checked collaterals with the Ministry. This "To Do List" list was completed on August 18, 2000, but the list is not specific as to the actual dates these specific actions took place. In the "Contact Notes" themselves, the social worker documented and indicates that ' was completed.

This is not on file. Contact with the supervisor was also identified as having been completed, but according to the "Contact Notes" seems to have occurred only on September 13, 2000, the day that the file was closed, contrary to **Practice Standard** .

concluded within 30 days as required in **Practice Standard**

The investigation was not
s.22

Conclusion:

These new concerns, [redacted] were raised while the intake was still open at the Agency, [redacted] When this information came to light, the social worker immediately arranged for a Prior Contact Check (PCC) and determined that [redacted]

However, when the social worker spoke to [redacted] supervisor, NTC7, a decision was made to close the intake and not to transfer it to [redacted] citing "no recent confirmed concerns to pass on to MCF. Close." That these new concerns were not considered [redacted] was the result of an inadequate assessment (Practice Standard [redacted]) and the new report was not transferred or investigated (Practice Standard [redacted] and [redacted] respectively).

Without documentation to the contrary, it appears that [redacted] concerns were present when the file was closed, but it is the lack of documentation on the closing recording, other than "no recent confirmed concerns", that raises some questions about the decision to close the file.

INTAKE – NTC :	CONCERN TYPE:
	RISK: Not Documented
	CALL DATE: [redacted] 2001
	CLOSING DATE: May 04, 2001

(MCFD

NATURE OF CALL:

DATE: , 2001

Priority:

Response Time:

Report

MCFD Response:

Agency Response:

File Analysis:

PRACTICE STANDARDS

The NTC social worker addressed the concern that was outlined in the “investigation intake” and according to information in the file, adhered to the practice standards by completing NTC3 also met with While the investigation appears to have been completed on April 19, 2001, there was no consultation with the supervisor until the file was closed and signed off on May 04, 2001, contrary to Practice Standard

Practice Standard that deals with recording the results of an investigation was only minimally followed in this case. The absence of this information deprives future investigators of the social worker’s professional judgement

The amount of time it took to complete the investigation was also beyond the 30 days specified in Practice Standard

Conclusion:

When the Ministry was conducting their investigation into the concern raised they had uncovered new concerns in the process; specifically There is no evidence that the issue was addressed. As in a previous intake, the additional concerns raised and documented by the Ministry during its investigation were not addressed in the follow-up investigation.

INTAKE – NTC	CONCERN TYPE:
	RISK:
	CALL DATE: . 2002
	CLOSING DATE: February 21, 2002

Report:

Response:

File Analysis:

PRACTICE STANDARDS

The social workers involved made appropriate inquiries and relied on information from and other collateral sources.

INTAKE - NTC	CONCERN TYPE:
	RISK:
	CALL DATE: , 2002
	CLOSING DATE: April 25, 2002

Report:

Response:

File Analysis:

PRACTICE STANDARDS

The report was general, without specific incidents or dates attached. Contributing to the difficulty in establishing precise dates is the amount of time between and the . Although the Agency did not meet Practice Standard the delays were unavoidable and appropriate documentation addressed this issue and all efforts were made to contact in a timely manner. Consultations with the supervisor were made, and the file remained open until contact was made.

The file was closed.

INTAKE – NTC ;

CONCERN TYPE:

RISK:

CALL DATE: 2002

CLOSING DATE: May 09,2002

Report:

Response:

File Analysis:

PRACTICE STANDARDS

A PCC was not in evidence as per the requirement of **Practice Standard**

Practice Standard outlines steps required in an investigation. It appears that this investigation focused on _____ and does not adequately address _____
_____ Collaterals _____ were not contacted. If the concern about _____ were considered relevant, a

should have had been arranged, in accordance with Practice Standard
Practice Standard sets out exactly what information the social worker should attempt to obtain during an investigation. In this case, the social workers did not appear to make any reference to

Practice Standard addresses the need to assess

Practice Standard provides social workers with information on what to assess when they are determining In essence, not enough information was gathered for a social worker to be able to make an accurate assessment.

OPENING: File #	FILE TYPE:
	CONCERN TYPE:
	RISK:
	DATE: May 2002

Summary: The previous report, the third in just over three months, resulted in the Agency opening a file. NTC1 summarized some of the concerns and the most recent intake. NTC1 noted that would be completed on May 14th (the next home visit).

A review date was set for August 9, 2002.

INTAKE - NTC
CONCERN TYPE:
RISK:
CALL DATE: July 2002
CLOSING DATE: July 23, 2002
(MCFD
NATURE OF CALL:
DATE: July 2002
Priority:
Response Time:

Report:

Response:

On July 8th, during NTC1's initial consultation with supervisor, NTC4, the
was discussed,

On July 9th,
NTC1 called the Ministry requesting further information but "they didn't have anything else that
we didn't already have."

On July 19th, the next entry into the file, NTC1 wrote that
would be closed and that
"will

informed NTC4 that the intake
would be made and the Agency

File Analysis:

PRACTICE STANDARDS

OPENING: File	FILE TYPE:
	CONCERN TYPE:
	RISK:
	DATE: July: , 2002
OPENING: File	FILE TYPE: :
	CONCERN TYPE:
	RISK:
	DATE: July 2002

Summary:

Shortly after the July Intake, files were opened

INTAKE - NTC	CONCERN TYPE:
	RISK:
	CALL DATE: August 2002

CLOSING DATE: August 23, 2002

Report:

Response:

**File Analysis
PRACTICE STANDARDS**

See File Analysis from Intake (below).

INTAKE – NTC

CONCERN TYPE:
RISK:
CALL DATE: August 2002
CLOSING DATE: August 27, 2002
(Simultaneous with Intake :

Report:

On August 2002, NTC10 received a report from

NTC1 then transferred the file to NTC8 for follow up.

Response:

On August 13th, NTC8 discussed the case with supervisor, NTC4.

On August 14th, NTC4 had a conversation with the supervisor, MCFD5, at the Port Alberni office to plan the S. 8 "Kith and Kin" agreement detailed in "Contact Notes Report":

"We reviewed the policy requirements and I stated that we had an up-to-date CRC on [the caregiver] and [the

caregiver's spouse] had gone in to have his done. I explained that I am aware that [the male caregiver] has a criminal record however needed to wait to get it back to confirm the information. I told [MCFD5] that to my knowledge, he did not have anything on his record which would prevent this placement."

NTC8 informed NTC1 of the plan on August 16th. They reviewed the requirements of the "Kith and Kin" agreement

On August 20th, NTC1 consulted with NTC4 and reported in "Contact Notes Report" "a family arrangement has been developed (under s.8 – Kith and Kin). Will leave intake open until this is completed."

NTC1's final entry in the "Contact Notes Report" reads:

Kith and Kin agreement completed.

Children are in the care of [the caregivers]. Close intake.

On August 16th, NTC1 tried again to contact the Ahousat RCMP for a collateral check. There was no answer. The worker then faxed the office requesting a call back.

In "Contact Notes Report" written in the file of NTC1 documented a discussion had with the children's (the caregiver) who confirmed that the child was living with her The social worker wrote:

Discussed needs around Section 8 requirements. Provided criminal record check form for [spouse]. [Caregiver] has one
Also provided [caregiver] with 2 personal reference checks. Received copy of [caregiver]'s criminal record (for file)."

"Contact Notes Report" from the same file indicate that on August 19th the social worker consulted with supervisor (NTC4)

Later on August 19th, called NTC1, who had heard from the caregiver about what was happening with children. NTC1 wrote in the "Contact Notes Report" in the file that in a meeting with on August 21st, 2002 agreed with the placement of children at the caregiver's home.

In the same file, documentation indicates that on the same day (August 19th) NTC1 called FCW1,

The social worker explained that they were

entering into a Kith and Kin Agreement (Section 8). The social worker attempted to call
without success on two occasions on August 19th (from File #

On August 20th, NTC1 had a PCC completed by the Ministry on the caregiver. Then called
the home where had been staying to make arrangements for picking up
and taking to the Section 8 caregiver.

On August 21st consulted with supervisor (NTC4). "Contact Notes Report" read

On August 22nd NTC1 contacted RCMP2 and was finally able to discuss the report

The
final sentence of the entry read: "Family arrangements have been made for Kith and Kin
agreement, children now in care of relative."

In "Closing Recording", dated August 23rd on the most recent intake NTC1 wrote,
Close."

NTC1 made three more recordings in the file.

The last entry read:

"Close file. Kith and Kin agreement to be completed.
living with [the caregiver]."

File Analysis:

PRACTICE STANDARDS

Conclusion:

Two simultaneous intakes triggered the Agency to decide that the children
and when the decision was made, the child had already been placed in the home that would
soon become the Agency's first Kith and Kin placement.

s.22

2) Was the decision to facilitate the entering of the *CFCSA* s.8 Kith and Kin Agreement between [the mother] and [the Kith and Kin caregiver] in the children's best interests?

Finding: This review can not answer the question as it is posed. However, the Agency's decision to facilitate a Kith and Kin (or Section 8) Agreement was based on the belief that the Caregiver's were the most appropriate placement for the children and made with the support of the family.

Discussion: The decision to facilitate a Kith and Kin agreement was made with incomplete information regarding the potential risks to the children. The placement was seen as a less intrusive measure and was supported by the family. However, this determination was made in the absence of information regarding the extent of the caregivers' involvement with the Ministry of Children and Family Development. The decision to facilitate a Kith and Kin Agreement was made based on a number of factors which, taken together, appeared to suggest that the agreement was in the child's best interest and was a viable option:

- The parents were no longer considered capable of caring for the children;
The family supported the plan for a placement with the caregivers;
- Agency staff believed that the male caregiver only had an old criminal record;
- The Agency staffed believed that there was no history of child protection involvement with the caregivers due to receiving the incomplete prior contact check,
The Agency had already rejected the option of the [redacted] home;
The placement was seen as a "less intrusive" measure than removal but would still have allowed social workers to monitor the situation;
The children would be with their family and in a familiar setting, having stayed there many times before;
There would be no need for the court to find both children to be "in need of protection";
The financial responsibility for the file would rest with the Ministry which made the option available to the Agency;
- [redacted] would continue to assist the Agency by keeping it informed of the parents activities;
- The process allowed the family to take some responsibility for decisions about care;
- The process was much less time-consuming than finding a foster home and conducting all the prerequisite home studies.

The Section 8 is an out of care placement option requiring the agreement of the child's family, the caregiver(s), and the social work agency. While foster homes are provided funding (a "per diem" to cover the costs associated with caring for a child), Section 8 caregivers are provided with funding based on their specific needs or circumstances. Consequently, this is a less costly option than foster care, and an option that is being promoted by MCFD as a way to keep children out of care.

Other Options Considered

a) Removal

The Agency opted for a Section 8 agreement. At the time, this was a relatively new procedure.

The social workers decided for three separate but related reasons:

- Kith and Kin option was available:
 - The family was in agreement with the Kith and Kin option.
 - Collaboration and involvement could be maintained with
 - It was considered “less” intrusive.
 - Social Workers believed that the information they had received from and sources provided a full disclosure of the male caregiver’s criminal record.
 - The family’s involvement with the Ministry was not known,
 - The local Ministry office had provided financial support for the Kith and Kin agreement
- In many communities the involvement of the family court process (required under a “removal”) correctly or incorrectly signifies the end to a cooperative relationship between the social workers and the family. The Agency was trying to explore other options that would avoid the having to travel to court to testify

b) Voluntary Care Agreement

Entering into a Voluntary Care Agreement (VCA) was another option. The process of approving a “Restricted” family care home was used to ensure that family members and /or family friends were given the option of caring for children. In order to prevent a child from having to move more than once after coming into care, social workers would sometimes place the child in a family member’s home pending the approval of that home before the entire home study could be completed. The worker would conduct some basic background checks including a criminal record check and a “prior contact check” before placing a child anywhere. If the family in

question thought the placement was a good option, and there were no reasons to suspect any reasons to preclude the placement, this would be the method used by many social workers.

Summary

USMA social workers, in consultation with their supervisor and the Ministry entered into a Section 8 Kith and Kin agreement with the mother and the caregivers when it was clear that the parents were no longer capable of caring for the children. At the time of the agreement agency staff were not aware of information about the caregivers that they were later to discover. This included the extent of the criminal history and the family's previous involvement with the Ministry. The agency was aware that the male caregiver had a previous history and that he had a criminal record.

It is impossible to speculate what the decision would have been had this information been known to USMA staff.

The social workers based their decision on what they thought was in the children's best interests, as well as a genuine but mistaken belief that they knew the caregivers well enough to know that prior problems and involvement with the law were not necessarily indicative of the family's current functioning. The social workers presumed that the home was a caring and loving home and entirely appropriate based on information from the extended family,

Without important information, the social workers' decision on which family member was most appropriate was seemingly an excellent choice based on the family's wishes to have the children live with . The knew about child care, having children of her own, she had cared for other members of her extended family, she was employed and she was willing to step in.

In addition the child was already living at the home where the mother had dropped her off, and where the mother said she wanted her children to live.

The requirements for a Kith and Kin Agreement include a criminal record check, a check of prior contacts with the Ministry and two references. USMA social workers had begun but not completed these checks before the child died, just over a week later. USMA staff had not confirmed the caregiver's criminal record, had not received references from family members, and had received an inaccurate record of prior contacts from the Ministry. While placing children with extended family and with the consent of parents and other family members is consistent with legislative and best practice principles, safeguards must be observed.

- 3) Did Usma Nuu Chah Nulth Community and Human Services agency staff follow the July 2002 Draft 'Practice Guideline for Section 8 Agreements – Aboriginal Agencies?

Finding: The agency staff did not meet the practice guide lines in the July 2002 Draft "Practice Guideline for Section 8 Agreements."

Discussion

The Agency understood the draft "Practice Guidelines" were not mandatory requirements as a policy or standard would be. Prior to the placement the Agency reviewed the guidelines and began to implement them. However, all the pre agreement checks had not been completed at the time the agreement was signed.

The Practice Guidelines for Section 8 Agreements had been sent to the Agency accompanied by a covering memo received by the Agency on July 23, 2002.

Agency staff did not receive any training regarding implementation or the practice implications of the Section 8 agreements.

i) Draft Practice Guidelines

The Draft Guidelines referred to in the Terms of Reference is a six-page document that was faxed to Aboriginal agencies in late July 2002 shortly after Section 8 of the *CF&CS Act* was proclaimed. The guidelines were sent to provide them with information on how to complete a Section 8 Kith and Kin agreement, a new option available to communities to care for children. Section 8 of the *CF&CSA* was included in the original legislation but had remained unproclaimed. It was introduced in 2002 as an element of MCFD's new strategic shift, placing more onus on communities (families, informal support networks) to care for children, to reduce the number of children in foster care by a specific percentage and, in the opinion of the review to reduce costs.

With legislation usually comes guidelines and training that assists workers in determining the situations or circumstances in which it should be used and situations where it should be avoided. Despite taking many years to proclaim the Section 8 there was no training for social workers who were required to rely only on the draft Practice Guidelines. While the Section 8 agreements appear less onerous than removals or VCA's in that they do not require home studies or the involvement of a resource social worker, they are more onerous for the protection social worker who, in conjunction with their supervisor, must make the objective analysis of the caregiver home; they can no longer rely on home studies conducted by their colleagues. This leaves protection social workers much more vulnerable to family influence as they are now responsible for the approving or denying family members' applications to be caregivers. Significant training is required in this area, especially in the current social work environment that emphasizes and favours all options that do not result in a child coming into care.

The Draft Guidelines state:

The implementation of section 8 supports the Ministry's strategic shift from protecting children through removal towards promoting family and community capacity to protect children while supporting children and family development.

They further state that the director may make an agreement with a person:

... who has established a relationship with the child or has a cultural or traditional responsibility towards a child, and is given care of the child by the child's parent [...] The key point with Section 8 agreements is that the parent has met parental responsibilities by making alternate care arrangements for the child.

Prior to the introduction of Kith and Kin Agreements, when an extended family member or close family friend expressed an interest in looking after the child, the family member or friend would be studied as a restricted family care home. The social worker would determine whether the placement was in the child's best interests. A home study would be conducted by the resource social worker. The new Kith and Kin agreements, seen as less intrusive were intended to reduce the need to open foster homes in these circumstances.

Under a Section 8 Agreement, parents are required to arrange visits with their children, they are not allowed to take them from the caregivers and they must demonstrate change in their lifestyle or behaviours before being permitted to have them return to their care.

While Kith and Kin placements are available *with* removal, it was clearly delineated in the draft policy that the preference—or “least disruptive measure”- was to engage in a Kith and Kin arrangement as an *alternative* to removal and an even less intrusive measure than a Voluntary Care Agreement. The draft “Practice Guideline” for Aboriginal agencies itself clearly stipulates, “Section 8 agreements are considered as a least disruptive measure for children deemed to be at risk as long as adherence to agreements will eliminate/reduce the identified risk.”

Essential in the planning for a Section 8 Kith and Kin Agreement is the involvement of the parent(s). It gives the parent(s) responsibility for the determination of the appropriate caregiver for the children and calls for the transfer of guardianship from the parent to the caregiver.

ii) Assessment Guidelines

In examining the Agency's adherence to the practice guidelines, particular emphasis will be placed on the three “Assessment” expectations referred to in the guidelines as “pre agreement checks”. The section entitled “Involving the care provider(s)” outlines the three “pre-agreement checks” to be conducted by the social worker:

You should:

- conduct a prior contact check regarding the care provider(s) [PCC].
- conduct a criminal record check – please refer to appendices for acceptance criteria [CRC].
- obtain two letters of reference from relatives

Note: A formal assessment of the care providers will not be conducted. The pre-agreement checks are intended to ensure that there are no known child

protection concerns/issues with the care providers. (July 2002 Draft Practice Guideline for Section 8 Agreements – Aboriginal Agencies)

These pre-agreement checks are conducted to ensure that the child will be in a safe environment. However, the language is general and non-prescriptive, evidenced by the use of the word “should” as opposed to “shall” or “must”. In addition, emphasis is placed on the informal nature of the checks, differentiating them from foster home assessments. The social worker might well wonder how these pre-agreement checks differ from assessments of family care home applicants since in essence the three pre-agreement checks actually constitute the foundation of every family care home application. It could be assumed that one difference, considering the non-prescriptive language, is in the formality and urgency in completing the checks. The other difference could be the emphasis on involving the families in the decision making. The child was placed with the caregivers by her mother prior to any formal assessment process.

iii) Prior Contact Checks (PCC)

The first pre-agreement check is the Prior Contact Check (PCC) on the caregivers. The PCC identifies the existence of particular types of files associated with the name of the caregivers, including Family Service (FS) files on which intakes and investigations are documented. Because the Agency did not have access to the Ministry computer file management system they had to have the local MCFD office fax the PCC to the Agency. This has been the accepted protocol between the two offices for many years.

On August 20, 2002, days after the mother had placed the child in the home of the caregivers, MCFD staff sent the Agency an incomplete, 1-page PCC

The error was discovered when on September 26, 2002, almost a month after the child died, the Ministry sent a correct and complete PCC to the Agency with a message apologizing for the first one. The Ministry was involved in maintaining financial authority over the Section 8 Agreement as First Nations agencies were not able to be financially compensated for associated costs.

The PCC is supposed to alert the social worker to the existence of file. It would then be up to the social worker to assess the detailed content of the file. They would do this by reviewing each of the “intake reports” which are the summarized intakes documented on the Ministry’s computerized filing system, known as SWS MIS. On the computer the social worker can gather important information on the report that was made, and then the social worker’s action. The Agency does not use the SWS MIS system making the process of checking previous involvement’s required gathering information from MCFD.

This second PCC showed

As an analysis of the Ministry’s involvement with the caregivers is beyond the scope of this review, a summary of this involvement is included in Appendix A.

In addition to having to get information from MCFD, there is also information that is not contained on the SW MIS system. These SW MIS reports only include the details of the reporters' concerns and an outline of the social workers' response. They do not include case notes from the social workers involved nor transcripts of interviews, documentation from schools, alcohol and drug counsellors, psychologists, police, or doctors. Agency Social workers would have had to request these reports from the local Ministry office once they found out that the correct PCC identified

iv) Criminal Record Check

The second of the "pre-agreement checks" is the Criminal Record Check (CRC). The Draft Guidelines require that the social worker determine if the caregivers have a history of criminal offences that could indicate a risk to children in the home. The Draft Guidelines require that social workers use the list of criminal offences from the Criminal Records Review Act "as a basis for deciding whether a child should be placed with the care providers." The existence of a conviction for one of these offences would then require the social worker to consult the "risk determination" section of the Draft Guidelines, to consider factors associated with the crime, including the time elapsed since the offence, the frequency of the offences, extenuating circumstances involved, among others. The "risk determination" applies only to the list of offences; there are no guidelines for social workers when a prospective caregiver has a criminal record for other offences.

The Agency Supervisor became aware that the male caregiver had a lengthy history of criminal convictions. The Agency supervisor did not believe that the male caregiver's criminal history would preclude the Agency from supporting the section 8 agreement. The Agency staff assumed that the information they received regarding the caregivers through informal discussions provided a complete picture of the family history.

By September 17, 2002 the Agency had not received the male caregiver's criminal record despite having signed a release of information on August 30, 2002. On September 19, 2002, the male caregiver signed another consent, When the Agency received a copy of the male caregivers criminal record it did not contain information on his last two convictions. However, this information was already known by the Agency supervisor. On September 25th and 26th, Ministry and Agency workers discussed the need for an even more comprehensive criminal record check. There appeared to be some concern about undisclosed offences. The criminal record did not contain any record of an offence that was prescribed in the list of offences in the Draft Guidelines.

v) Letters of Reference

It is unlikely that an individual hoping to have their home approved by a social worker will randomly solicit references from their family; they will ask close family members to support their application. By requesting reference letters, there is an underlying (and misleading) expectation that they will provide the social worker with relevant insight into a home's suitability. If the letters are in fact simply a way for family members to provide consent to the Kith and Kin plan then this should be made explicit. Reference letters from family members should not be expected to provide objective or unbiased assessments as at best they are of limited value and at worst they could give inexperienced social workers a false level of confidence and will detract from all social workers' ability to focus on more important issues. In the current case, both references contained glowing praise of the caregivers and their dedication to the family.

Based on the caregivers own disclosure and collateral checks

- 4) Was the information sharing process between the Ministry for Children and Family Development Vancouver Island region and the Usma Nuu Chah Nulth Community and Human Services agency with particular respect to the sharing of information regarding the [Kith and Kin Caregiver] family adequate to ensure the safety of the children in the Kith and Kin placement?

Finding: The information sharing process between the Ministry and the Agency failed to alert Agency social workers of the existence and nature of caregivers' involvement with the Ministry.

Discussion: When the Agency requested a PCC on the caregivers' home, they were provided with an incomplete record of Ministry involvement with the caregivers' family. Having staff from an external agency research and print the PCC and then fax it to the Agency left room for error. While this process seemed to work in the past, in this case key information was not provided to the Agency social worker until after the child's death.

Unless agencies and the Ministry agree on a seamless communication system avoidable failures in communication will result. Due to a error, and a burdensome process, important information did not come to light. As a consequence, Agency social workers remained unaware of previous Ministry involvement with the caregivers' family.

i) Background

- Family members had decided to place the child in the caregivers' home and had done so six days before the incomplete PCC was sent to the Agency.
- The local Ministry office was solely involved in providing financial support for the Kith and Kin agreement. The Agency had taken responsibility for the assessment of the caregivers.
- It is unlikely that staff at the local MCFD were aware of the caregivers' history of involvement with MCFD.

A correct PCC would have provided social workers with an opportunity to meet with the prospective caregivers to discuss issues, the previous intakes, and how circumstances in their lives might have changed since their difficulties. When a MCFD office receives information (an Intake), the social worker enters the information into the computer database, consisting of numerous screens (or fields). Like book chapters, each screen has its own purpose; "caller information" is recorded on one screen, the "individuals involved" is entered on another, "location" of the family on the next, the planned "actions" on the next, etc. The social worker is capable of navigating from one screen to another to get an overall view the full contents of the intake. If the nature of the call is within the mandate of the MCFD, the Intake either generates the opening or the re-opening of a Family Service (or "FS" file) on the family in question.

MCFD "FS" files are expected to contain all of the Intakes relevant to that family. So if a social worker needs to find out if a family has had any previous involvement with MCFD, they would conduct a "Prior Contact Check" (PCC) from their computer terminal, which will then produce a list of all Ministry involvement with that family. It even shows whether the Ministry of Human

Resources has a file on the family (although it will not allow for the disclosure of any further information on that person). The list of files may include files of varying interest to the social worker, such as "GA" (Gain) files that indicate that the client is, or has been, a social assistance recipient; "RE" (Resource) files which would indicate that the family has been a resource for another child, or "FM" (Family Maintenance) files which would indicate that there is or has been a maintenance order in place concerning a family member.

The list will also include "FS" (Family Service) or "CS" (Child Service) files, which are of greater interest to the social worker. These files indicate that a social worker has had previous involvement with one or more members of the family. If an FS or CS file exists, the social worker can review its contents, including a full review of the "Intakes" or "reports" which have been registered on the file. In this way, the current worker will know a family's prior involvement with social workers (anywhere in the British Columbia). Electronic case management has been in place since 1997 in Ministry offices and has gradually been installed in First Nations agencies. At the time of the child's death, the agency did not use the SW MIS system.

ii) Agency Intakes

[Please note: The MCFD SWS MIS database is now accessed by all First Nations agencies, but was introduced at the Agency only shortly after the child's death.]

The Agency has its own system that documents information in a very similar way to that used by the MCFD. It does not share information with the Ministry's system. The filing system the Agency uses has various fields into which to put information about an intake. It includes a "Face Sheet" which informs the reader of basic information about a file, a "File Details" report that documents when various actions have been taken, as well as an "Assessment" screen that allows a social worker to indicate their initial findings. The system also has a field called "Contact Notes", where the social worker documented their actual involvement with the family. Other fields are mentioned throughout this report. When agency social workers need to conduct a PCC, their task would be two-fold. First, they would determine if their agency has had previous involvement by checking their own file management system. Second, they will telephone the local MCFD office and request a PCC, which will then be faxed to the Agency. The faxed information should indicate the existence of previous Ministry involvement with the family, but only its existence, no file details. To get the details, the social worker would then have to request the printout of all the Intake Reports

. The entire file was eventually requested after the child died.

iii) File Recording

After information has been recorded on an agency or Ministry file, this information stays with that file whenever the file is re-opened or transferred. However, problems arise when information that should be included on one file is registered on another file. In the case covered by this review, concerns about the parents' parenting abilities were recorded on the MCFD file belonging to the mother's temporary caregiver. In all, there were four intakes concerning the mother that did not get included on the mother's file when her file was opened by the Agency. In all probability there were intakes on the mother who would likely have been identified as the "key player" but located in the : file, with the mother indicated as a dependent as well. The reason for this omission is because the mother was not

identified as the “key player” when the intakes were recorded, instead, she was registered as a “dependent” under the file. For this reason, when a Ministry file was finally opened for the mother, it did not include these four intakes, two of which regarding the mother and father’s parenting abilities. The Agency’s first intake on the mother was registered from information in the May 1999 Ministry referral, and of course, it did not include previous Ministry involvement either. When the Ministry opened an file on the mother in August 2000 the worker indicated “no intake history available” despite the fact that the Ministry itself had been involved with the mother (although not recorded as a “key player”) on four previous occasions –two of which were

The issue of file recording, and the proper identification of “key players” clearly have an impact on the quality of communication between the two agencies, each with their own systems of recording. When the Ministry opened the file on the mother in August 2000, not only were the four previous Ministry involvements with the mother undetected, but there had been two registered by the Agency that were undetected as well. When the Agency records an intake or opens a file they are required to arrange for a PCC from the local Ministry office. When the Ministry registers an intake or opens a file they conduct their own PCC. Ministry workers have no way of determining if non-Ministry agencies have had any involvement with the family in question if the agency does not use the Ministry’s computer database system.

iv) Prior Contact Checks

While the Ministry’s file management system is complicated and laborious, it is also essential for communications purposes. The entire child welfare case management system in the Province is based on one social worker’s ability to communicate immediately with another as well as their ability to view previous involvement in a case promptly, wherever the worker or the file are located. It is designed to be a reliable source of relevant information for social workers who are routinely assessing family functioning and the safety of children.

Many agencies do not use the Ministry file management system for different reasons. One, it is complicated and requires comprehensive training; and two; it is a Provincial government system, and three; it does not link well with other electronic file management systems used by agencies.


III. RECOMMENDATIONS

1. The Agency Executive Director to review with their staff the Aboriginal Operational and Practice Standards and Indicators related to investigation specifically Standards #4 -#20 of Level 15 delegation.
2. The Agency Executive Director and MCFD Manager to review their protocol to ensure that there are no barriers to good communication between the Ministry and Agency
3. The provincial Director to ensure that when new child welfare legislation is enacted, and before new standards are implemented or new policies are approved, all social workers are provided with its associated training, especially in cases where the new legislation is central to how children are protected, such as Sections 8, 9, 10 and 41.
4. The provincial Director MCFD, to review Kith and Kin guidelines to determine whether they were intended as discretionary guidelines or as a policy requirement. The revised November 2003, Kith and Kin guidelines should be forwarded to all Aboriginal Agencies.
5. The provincial Director MCFD, to review policy regarding out of care options to determine whether medical examination should be completed on all children living in out of care placements as a result of a child protection intervention.
6. The provincial Director MCFD to require that all child welfare agencies in British Columbia use an information-sharing computer database that interfaces with every other child welfare agency in the province. The SWS MIS system of file management and information sharing is one such database that should be available to all agencies in the province prior to their achievement of Level 15 (Protection) delegation. Because social worker's assessment tools are limited, knowledge of a family's previous history is essential for them to make informed decisions. The SWS MIS system lists any previous Ministry involvement with the child or family. Since all agencies go through a long and graduated process of achieving the highest level of delegation, the requirement that the information-sharing program be in existence prior to the Level 15 delegation would not create undue hardship on an Agency.
7. The provincial Director MCFD to ensure that Ministry and Agency social workers are aware that intakes on young people who are parents or who are about to be parents and who are living away from their legal guardians with little or no likelihood of repatriation should be registered under the young person's name. They should identify the young person as the "key player" on their own Family Service file even if they are living with family members or other de facto caregivers.
8. The regional Director MCFD and Agency Director to ensure training is provided for Family Support workers regarding reporting responsibilities and working with delegated Aboriginal Agencies.
9. The provincial director MCFD to communicate with MCFD staff that all files are clearly marked as "protection" or "request for family support services". While the response of the

worker may not be affected by this classification because of their knowledge of the case, when the file is transferred to either another social worker or another agency, proper classification is critically important.

10. The agency director to ensure that social workers do not register intakes related to their family members on Family Service files, whether they are "protection" calls or "requests for family support services".
 11. The Agency director to ensure a clear communications protocol be developed and implemented between delegated social workers and local police detachments.
 12. The provincial director MCFD to communicate with delegated agencies and Ministry staff that Prior Contact Checks must be reviewed by a delegated social worker before being forwarded to another Agency.
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This Director's Review signed off by:



Jeremy Berland
Director
Child Family and Community Service Act

Date: May 11, 2005

Appendix I: Review of Relevant Intakes on Caregivers' Home

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APPENDIX II: REVIEWER'S OBSERVATIONS

Complex tri-partite financial and policy arrangements exist between the Federal, First Nations and Provincial governments that may lead to confusion over which level is legally and financially responsible for various practice decisions. Comprehensive funding to support new initiatives should be a consideration when enacting new legislation, new standards are implemented or when new policies are approved.

- ii. Social workers working in remote communities should be required to travel in pairs whenever carrying out delegated responsibilities. This additional travel costs and casework should be recognized in funding arrangements.
- iii. The Ministry of Children and Family Development, Aboriginal Agencies, Coroner office and the RCMP should ensure that there is clear communication and a good working relationship for cases where all parties are involved.
- iv. When a child dies, and there is no immediate evidence available to confirm the cause of death, a team of pre-identified health and social service workers should be available to be consulted to determine the appropriate course of action (if any) to be taken with regard to any other child welfare concerns in the home. This team would be similar to that of the HARC (Health Assessment and Resources for Children) team, made up of a Paediatrician, two General Practitioners, a Psychologist, a Social Worker, a half-time Nurse and one administrator position who respond in serious and complicated child protection matters.