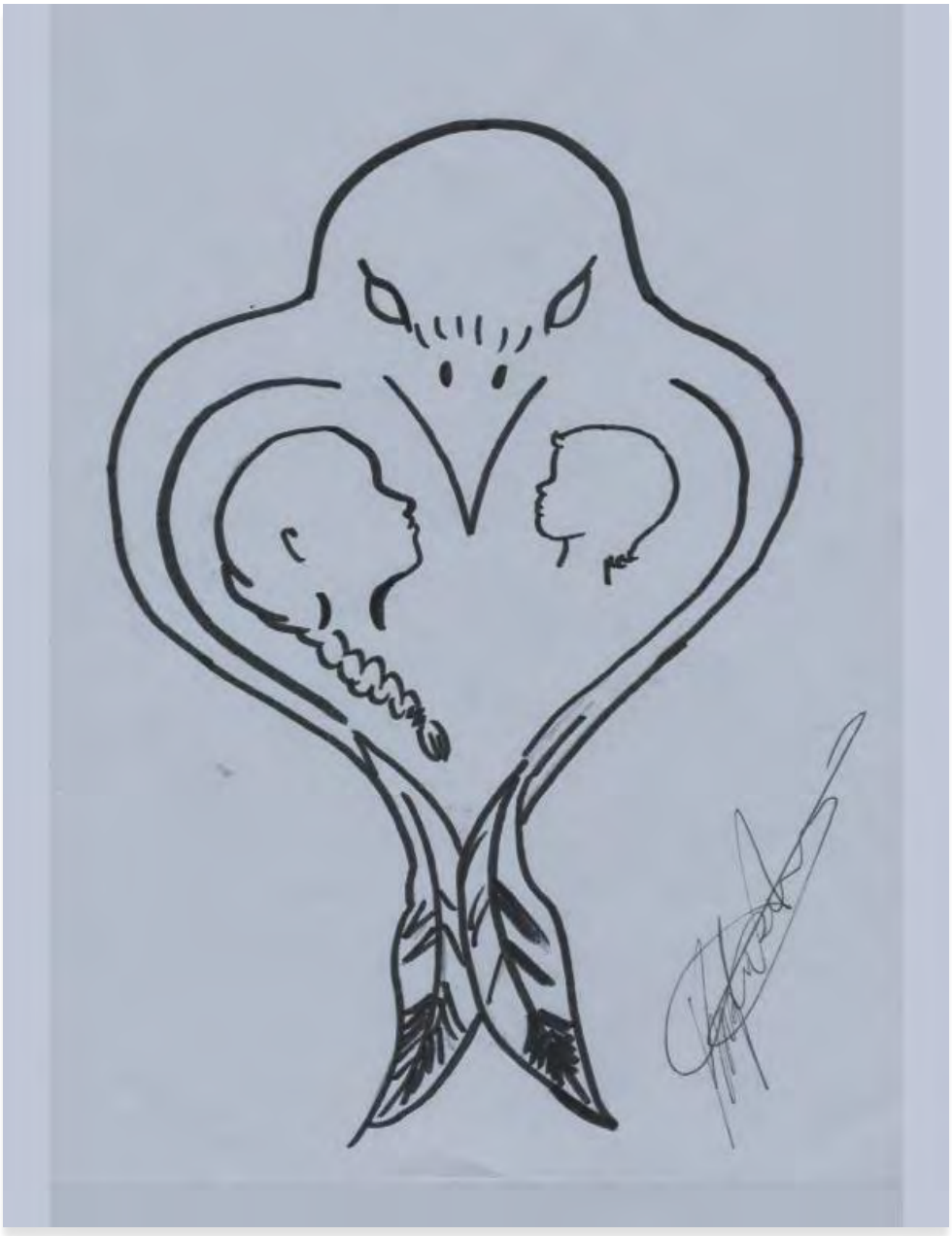
Embracing the Children of Yesterday, Today and Tomorrow



Child and Family Services Act Advisory Committee:

Chair Mo Caley-Verdonk, Vice-Chair Ray Sydney

Doris Anderson, Lori Duncan, Debbie Hoffman, Rosemary Rowlands

Original signed by the six members
of the *Child and Family Services Act*
Advisory Committee

Mo Caley-Verdonk, Chair

Raymond Sydney, Deputy Chair

Doris Anderson

Lori Duncan

Debbie Hoffman

Rosemary Rowlands

Table of Contents

COMMENTARY

Purpose of This Report

Section 183 of the *Child and Family Services Act* (the "Act") requires a review of the Act every 5 years. This is the first time a review has been conducted since the Act was brought into force in 2010. Six of us were appointed to the Child and Family Services Act Advisory Committee (the "Committee") to conduct this review.

We were asked to look at the Act and its implementation together with the way supports and services are delivered under the Act. We were asked to produce recommendations following our review. However, "recommendations" do not capture the type of change that is needed, and we have therefore outlined the "Required Actions" that must be taken to show Yukoners they have been heard.

When we met with people, we asked for an honest account of:

- what is working well in your community[1]?
- what could be working better?
- what needs to change to improve outcomes for children, youth and families?
- what would prevention activities look like in your community?
- is there anything else you would like us to know?

We also asked everyone we met to provide us with a wish list of changes they wanted to see.

A variety of ways were offered in which information could be provided to us confidentially:

- by way of our CFSA Advisory Committee website;
- private phone calls;
- written submissions; and
- private one-on-one meetings.

Community and public meetings were held across the territory and we returned to several communities by invitation.

Bringing Our Report Back to Yukoners

> *"We need to learn to listen to each other - it's a privilege to see things differently", Yukon First Nation Elder.*

[1] Throughout this report, when we refer to "communities" we are referring to all Yukon communities including Whitehorse.

In every community, in each engagement, Yukoners asked, *"What is different about this process? Why should we say anything when we've been consulted over and over again, and nothing ever changes?"*

Given the chance, people will tell you exactly what changes they want, and what they need to be supported.

Their answers were thoughtful and consistent, and we have tried our best to capture them. Yukoners continue to be cautiously optimistic that this process will result in substantive and meaningful change. If meaningful change does not result from this consultation, people will continue to feel used and betrayed by a system that was put in place to support them.

Although there were unique circumstances in each community, and for each situation, it became apparent that there were 6 consistent themes:

- Partnership;
- Preventive Intervention;
- Support;
- Education;
- Legislative Changes; and
- Implementation.

We have witnessed the resilience, bravery, creativity and skill that is beating at the heart of each of our Yukon communities. We heard it in the people who access community supports and services; and in the people who provide them. We know it is difficult to implement meaningful change, and we also know that it can be done. There continues to be a willingness to work together.

Implementing Change

To implement the changes that are needed, Yukon Government must work in partnership with Yukoners and individual First Nation Governments when drafting and implementing necessary changes to the Act, and its policy and regulations (Required Action 1).

As we heard from a front-line worker, when the Act was introduced in 2010:

> "*the spirit of the Act said to work together, plan together and problem solve, and that looks good on paper, but the spirit of the Act must be operationalized……consensus decision making is an uncomfortable process for a bureaucracy that is invested in power…..transformational change needs to happen in the bureaucracy".*

We all need to truly invest in our grassroots and families. This means providing services in ways that meet the needs of the family for as long as the family needs to be supported.

"Finding solutions that will work requires partnership and collaboration. One person won't have all of the answers, and no one should be put into a position where they have to find those answers and solutions alone", Debbie Hoffman, CFSA Advisory Committee Member.

When community-based knowledge is used to inform best practice, children will be protected and safe – in their home communities.

"In the current process, a child isn't allowed to be a child", Yukon Elder.

We heard from Yukon First Nations throughout this review that it is time the antiquated, colonial residential school system emulated by the child welfare system be "aged-out":

"We are ageing out of the Indian Act, the residential school syndrome and the Child and Family Services system", Doris Anderson, CFSA Advisory Committee Member.

We all have a responsibility to take up this challenge and make a commitment to our children to prevent the trauma that is caused by separating children from their families, their home community and their culture. It has to stop now.

We have heard consistently that children always come home. We must support our children to remain in their homes, with their extended families or in their community in a safe, supported and loving way instead of forcing them to repair *a broken connection they didn't create*, when they eventually find their way home (Required Action 2).

When children return home, their community must have the capacity, the housing and the human and financial resources to provide for those children.

Building Capacity in our Communities

Capacity must be built through collaboration between the various departments of the Yukon Government, the child's First Nation Government and the community.

"Capacity" includes human and financial resources; housing and infrastructure for citizens and staff; and the ability to hire and retain people within the community to do the work. Many communities have difficulty hiring or housing staff due to the lack of appropriate accommodation and this affects the ability to attract and retain workers.

Although individual communities have asked for help to build their capacity for decades, they continue to be inadequately resourced to meet this need. It has been easier, and has therefore become more common, for Yukon Government to work with centralized bodies and non-government organizations (NGO's) instead of working directly with individual First Nation Governments.

We have heard that the resources that are needed to build capacity often do not make it to the grassroots level and this raises issues that must be addressed, based on what we heard.

Although individual First Nation Governments have the ability to delegate their authority to a central organization, citizens have told us they want their Government to be empowered to build capacity for itself. Without capacity, autonomy and self-determination are not possible.

We therefore see the need for individual First Nation Governments to know and be more aware of their options:

- the individual First Nation can control their own destiny and build capacity within their community (and be provided with adequate resources to do so); or

- the individual First Nation can delegate their authority to a centralized body that will make decisions and act on behalf of the First Nation.

Delegation to a central body may be easier than developing programs and services individually, however delegation results in the loss of self-determination and autonomy for the individual First Nation and for the citizens that are served by that First Nation. Building capacity and working on a Government to Government basis with Yukon Government will result in more resources reaching the individual First Nation community.

Individual First Nation Governments and First Nation citizens must be educated about their options to retain or delegate their authority to contract with the Yukon Government directly to build capacity in their community (Required Action 3).

It may take more time and effort to work in collaboration with individual First Nations, however, that is how each individual community will be empowered to build its own capacity. We heard repeatedly that this is what communities and First Nation Governments want; putting people in their community to work and mobilizing and growing the community knowledge-base through capacity-building.

One reason why communities still do not have capacity is because the resources and authority have been filtered to centralized bodies and government bureaucracies that are not based in the communities; the resources, finances, jobs and capacity that communities have wanted for years do not make it to the community level.

We have heard repeatedly that community capacity-building has been ignored for too long. This must change. It has been challenging for individual First Nation Governments and

communities to build strong partnerships with the Yukon Government because they do not have the resources or the capacity.

The community and individual First Nation knowledge-base is strong, and the community's ability to contribute partners must not be underestimated. Putting the resources on the ground in the community has the most impact and will provide the most benefit to children, youth and families. The lack of capacity in the communities has undermined the creation of true partnership between Yukon Government, individual First Nation Governments and communities.

The loudest message we heard from Yukon people is the need to build capacity within each individual First Nation Government and community. Individual First Nation Governments must be supported by the Yukon Government to build capacity (Required Action 4).

Acknowledging and Accepting Change

We acknowledge that some action has been taken and some changes have been made within Family and Children's Services both prior to and during our review. However, Yukon people are fed up with piece-meal answers and band-aid solutions. Changes must be made in partnership with individual First Nation Governments and communities and those changes must be monitored and evaluated regularly by workers and those who use the service (Required Action 5).

We heard that sometimes, when solutions are created by Government in isolation or without involvement by the grassroots, the needs of the people using the service are not understood and they are therefore not met.

> *"Everyone needs a voice – they need to be able to have a say and to be heard" Mo Caley-Verdonk, CFSA Advisory Committee Member.*

Throughout the territory we heard in a variety of ways that Yukoners want ground breaking movement that:

> *"shakes the earth and cracks it open to reveal the light"*.

Parents and communities want their children home; they also want a say about what is happening for themselves and for their families. Many families are vulnerable, and they are in need of support to make their already fragile situation better not worse.

Yukon people are demanding a massive change that is built in partnership with each Yukon First Nation Government and each Yukon community. Picking a few ideas from this report and acting on them is not the kind of change Yukon people want. We heard Yukoners do not want

another bureaucracy implementing the changes that must happen in the communities at the grassroots level (see Required Action 4, at p. 8, above).

We also heard that people want to know the facts because facts affect funding. Although there are fewer court applications and fewer children in foster home placements under the new Act, a similar number of children are in care under extended family care agreements. As a result, there needs to be a redirection and increase in resources and supports to families (Required Action 6).

Because of their resilience, Yukon people expressed a strong willingness to work together. They are, however, asking for a reason to trust. Trust can only be established if Yukoners are an integral part of the rebuilding process.

> *"People take ownership of solutions they are a part of, not the solutions that are dictated to them", Yukoner.*

PREAMBLE

"Embracing the children of yesterday, today and tomorrow"

We recognize that *"yesterday"* Yukoners were not invited to be part of the solution. Solutions have been imposed rather than created in partnership. This has created division and distrust.

In the Yukon, the introduction of western society brought many things that affected the well-being of First Nation people. First Nations were forced to assimilate and change their names. They could no longer practice their traditional ways; they were told where to live, their language was taken away and their children were placed in residential schools.

We are seeing the effects of assimilation today in the loss of parenting skills, familial connection and heritage resulting in violence and addictions as a way of coping with these losses.

We recognize that First Nations have been resilient; many have kept their language, culture and identity and are helping others to regain their culture and traditions.

This report outlines what Yukoners are experiencing *"today"*. This is their reality. Some change is happening – for example, there are several Yukon and national initiatives currently underway; this report will touch on many of them. In addition to the changes brought forward in these initiatives, there must be a shift in the prevalent underlying attitudes, and an openness to work together for change.

We have noted throughout this Report, building capacity is the most important step in achieving true partnership. Individual First Nation Governments and communities cannot participate as meaningful partners unless and until they have capacity.

This shift is something that must happen for Yukon to succeed *"tomorrow"*. We must repair the past damage and eliminate the current divisions and distrust; we must walk a different path – a path that is created in partnership.

> *"Nothing about us, without us", Yukoner.*

MEANINGFUL PARTNERSHIP FOR CHANGE

"It's a brand-new day in the Yukon"

"Partnership" means the relationship between individual First Nations Governments, communities, Yukoners and Yukon Government. Partnership must be built upon mutual respect, trust and understanding by participants who each have the capacity to sit at the table and collaborate to achieve a consensus about the best course of action. "Partnership" begins and ends with collaboration and must be clearly defined in the Act (Required Action 7).

> *"Partnership means that Yukon First Nations are the authors of their own destiny"*
> *Debbie Hoffman, CFSA Advisory Committee Member*.

The intent of the guiding principles (set out in section 2 of the Act) must be honoured in spirit and in practice (Required Action 8). The Act must be interpreted and administered in a way that ensures the child is safe and protected while recognizing the importance of family, cultural identity, and prevention.

When the child is indigenous, the guiding principles direct that the child's First Nation(s) be involved as early as practicable to ensure that a First Nation lens is applied. Immediate involvement by the child's First Nation Government(s) and the application of a First Nation lens must happen in every case involving an indigenous child. This is what we mean when we say in Required Action 8, above, that the "intent of the guiding principles must be honoured in spirit and in practice".

Partnership Between Yukon Government and Individual First Nation Governments

When we outline the changes that need to be made in this Report, we acknowledge Federal Bill C-92. We do not want to take away the benefit that the proposed federal legislation will have for First Nations people. Rather, after it is revised, the Act will stand in the gap that exists between today and the day when child welfare authority may be drawn down by each First Nation Government. Until that time, there must be a strong partnership built between the Yukon Government and each First Nation Government.

The partnership must continue if the First Nation Governments decide to draw down their authority, allowing the two Governments to continue talking to one another (see Required Action 110, p. 54, below).

We have heard that more than ¾ of the children in care are indigenous. Individual First Nation Governments must be provided with the capacity to be meaningful partners who help care for and support indigenous children and their families. Individual First Nation Governments and communities must be provided with the funding necessary to build their capacity (Required Action 9).

In section 2 of the guiding principles, section 2(j) needs to be moved up to 2(a) to establish this partnership as a priority and "should be" must be changed to "must be" (Required Action 10):

> 2 *The Act shall be administered in accordance with the following guiding principles*
>
> *(j) First Nations should be (change to must be) involved as early as practicable in decision-making processes regarding a child who is a member of the First Nation*

In section 3 of the service delivery principles, section 3(e) needs to be moved up to 3(a) to establish this partnership as a priority and "should be" must be changed to "must be" (Required Action 11):

> 3 *The following principles apply to the provision of services under this Act:*
>
> *(e) First Nations should be (change to must be) involved in the planning and delivery of programs and services to their members.*

We refer repeatedly in our report to "individual First Nations" and "individual Yukon communities". We have heard that people *"don't want another organization or bureaucracy to lead the way"*. Individual First Nation Governments and individual communities want to create community-based, community-driven solutions.

Due to a lack of trust that has built up over generations, there are families who will not access the supports available to them if their only access is through the Yukon Government. This is one of the many areas where partnership with each individual First Nation Government will result in greater access to supports and services for children, youth and families.

If a caregiver knows about and feels comfortable accessing support and financial assistance through their First Nation or another organization capable of responding to their need immediately, they must be able to take that route. To eliminate a barrier that many people feel because they are reluctant to ask the Yukon Government for help, the First Nation or organization must be able to bill-back the Yukon Government for the support provided (Required Action 12).

Each of the 14 Yukon First Nations listed in the definitions in section 1, has the right to negotiate a First Nation Service Agreement with the Minister. The purpose of a Service Agreement is to create a Government to Government partnership to provide services to families and children under the Act. Section 168(1)(a) and (b) says the Minister:

> *(a) shall, at the request of a First Nation, enter into negotiations with the First Nation or other legal entity, respecting the proposed designation of a First Nation service authority to provide services under this Act; and*

(b) may enter into an agreement with the First Nation or other legal entity respecting the proposed designation of a First Nation service authority to provide services under this Act.

Each First Nation Government can contract directly with the Yukon Government to deliver service to its citizens and receive the necessary funding to do so (168(2)(b)):

(2) An agreement entered into under paragraph (1)(b) shall include provisions respecting

(a) the proposed composition and mandate of the authority including the services to be provided by the authority, the people in respect of whom the authority would be responsible for delivering services to and the area of the Yukon in which the authority would act;

(b) financial arrangements; and

(c) applicable terms and conditions.

Individual First Nation Governments have been negotiating Memorandums of Agreement ("MOAs") with the Yukon Government to provide service to their citizens and to define the nature of the relationship between the two Governments. We heard that this is a good start, and it does not go far enough because these are not legally binding contracts. Rather, MOAs are put in place to define the relationship between the two Governments.

If a First Nation Government develops a MOA with the Yukon Government and the First Nation Government wants to incorporate the MOA into the Act to make it legally binding, and to guarantee adherence, there must be an option to make the MOA a regulation (Required Action 13).

Section 168 is broad in scope and in application. Each First Nation Government has the right to enter into an individualized agreement to provide support and services under the Act to their children and families and enter into financial arrangements with the Yukon Government to have the capacity to provide those supports and services. When these service agreements are individualized, recognition will be given to the uniqueness of each community. When adequate financial arrangements are made with individual First Nation Governments under section 168, each First Nation and each community will start to build capacity. Individual First Nations must know they have this option (see Required Action 3, at p. 7, above).

When financial arrangements are made for service delivery, they must be clearly outlined in regulation to ensure the responsibility for funding does not fall upon the individual First Nation Government. The money must flow to the community where it will have the greatest impact (Required Action 14).

First Nation citizens and their Governments have told us they are in the best position to look after their children and families. They bring a strong commitment and motivation and the community-based knowledge that will allow their people to heal and parent in the most effective and least intrusive ways.

As stated by many of our Yukon Elders *"let us do this ourselves"*. We understood this to mean that individual First Nation Governments want to take their rightful place as partners and share their expertise about:

- community-based knowledge;
- on-the-land healing; and
- preservation of culture and identity.

Without the involvement of individual First Nation Governments, we have heard that Yukon Government is failing in the creation of mandatory case and cultural plans for children and in preparing children for adulthood. Culturing planning has either been non-existent or seriously deficient.

Healing and supports must be culturally appropriate to each community to allow healing to occur in ways that respect the culture and traditions of that Nation and that community. We are not suggesting that another bureaucracy be created or delegated with this responsibility. In fact, we heard "*why make a big bureaucracy bigger?"*

We also heard that capacity must be built within each community to ensure culturally and community-specific support is provided. Although the Act allows for them, these individualized service agreements between Yukon Government and individual First Nation Governments are not being negotiated. Individual First Nation Governments need to know they have the option to negotiate these agreements (see Required Action 3, p. 7, above).

This is important because, although the stories were similar, the solutions brought forward by each community were distinct and innovative. The grassroots in each community were best able to articulate which supports and services their citizens need.

Section 173 says that Cabinet may designate an employee of a First Nation (First Nation is defined in section 1 as one of the 14 Yukon First Nations) as a director or assistant director:

> *173(1) The Commissioner in Executive Council may*
>
> > *(c) designate as a director, an executive director or other employee of a First Nation service authority for the purposes of the services to be delivered by the authority; and*

(d) designate one or more employees of a First Nation service authority as an assistant director for the purposes of the services to be delivered by the authority, with all the powers, duties and functions of the director of the authority.

Section 168 allows each individual First Nation Government to negotiate directly with the Minister to provide services under the Act as a designated First Nation Service Authority. When a service agreement has been negotiated, an employee of the individual First Nation will be designated as a director for the purposes of providing those services under s. 173 with the same authority as the director of Family and Children's Services.

If the individual First Nation Government wants to designate a legal entity to negotiate on its behalf under section 168 and be appointed as a director under section 173, that can happen. However, that choice must be revisited with the individual First Nation Government annually to ensure the First Nation still wants a legal entity to be its representative since the choice may change over time (Required Action 15).

Partnership with Communities – The Need to Focus on Capacity Building

Section 175 of the Act provides for community advisory committees to be established in each community to participate in the development of service delivery within that community. The establishment of advisory committees within each community allows for the financial support and resources to be filtered directly to that community to build capacity, as requested by the communities. We have heard repeatedly that building capacity (financial, human, and adequate housing for staff) in each community is essential (see Required Action 4, p. 8, above).

Local administration of services at the community level will cultivate autonomy and self-determination. Programs and services must be offered and administered locally and be community-specific to directly benefit the communities' children, youth and families (Required Action 16).

175(1) A director may establish one or more advisory committees to promote and encourage the participation of the community in the planning, development and delivery of services by the director.

(2) A director shall, where appropriate, work with community agencies or other committees that have been established, to cooperate in the planning.

Planning, Collaborative Planning and the Development of Cultural Plans

Section 2(d) of the guiding principles says:

2 *This Act shall be interpreted and administered in accordance with the following principles*

(d) the cultural identity of a child, including a child who is a member of a First Nation, should be (change to must be) preserved

To achieve a true partnership with First Nation Governments, "should be" in 2(d) must be changed to "must be" (Required Action 17).

Social workers, First Nation Governments, community services providers and families tell us they are often frustrated when they build a plan of support that is later disregarded by upper management. This shows fear by management in trusting community-based knowledge.

We heard that the majority of children do not have cultural plans or that the cultural plans are seriously deficient.

The Act must explicitly state that a mandatory cultural plan is a necessary and essential component that is a stand-alone document, developed in partnership with the child's First Nation Government(s) (Required Action 18).

The individual First Nation Government(s) can provide the child's lineage as part of the cultural plan to allow the child to become educated about who they are and where they come from. We have heard that genograms are not used to educate children about their lineage, rather they are sometimes used inappropriately to build a case against the family or the child.

Involvement of the child's First Nation Government(s) will ensure the child's community connection and cultural identity are preserved to foster the child's sense of belonging.

6(1) The purpose of co-operative planning is to develop a case plan that will

(a) Serve the best interests of the child;

(b) Take into account the wishes, needs and role of the family; and

(c) Take into account the child's culture and community.

The Act contemplates a meaningful partnership between the Yukon Government and the child's First Nation Government(s) provided the child's First Nation Government(s) have a seat at the table together with the child, the family, the community and the family's supports (all of which are listed in section 7 as "Participants") when developing the child's mandatory case plan:

7(1) When a family conference or other co-operative planning process is used to develop a case plan, a director shall invite the following persons to participate

(a) the child, if the child is able to understand the process and wishes to attend;

(b) the child's parents;

(c) if the child is a member of a First Nation, an authorized representative of the child's First Nation;

(d) members of the child's extended family who are significant to the child;

(e) relevant service providers; and

(f) any other person, including foster parents, (must be added) whose involvement would be of assistance in developing the plan.

Sections 6(2), and 44(1) say that these participants must be involved in the development of the mandatory case and cultural plans when a child needs protective intervention when the director is applying to court to remove a child from the family's care, or the child is being placed in care under a voluntary care agreement.

In section 7(1)(f), the foster parents of the child must be specifically included as participants in the development of the child's mandatory case and cultural plans (Required Action 19). For example, when the foster parent is caring for a child with special needs, the foster parent's input will be important when determining how the child can participate in cultural activities. For example, a child may have difficulty attending a drumming ceremony because it is too loud, or there are too many people. However, that child may be able to participate in another way such as making bannock for the ceremony or feast. When the child's foster parent is at the table, they can provide this type of important information to create a better experience for the child.

Equitable funding must be provided to ensure the participants in the collaborative planning process (outlined in section 7(1)) have the financial and human resources needed to fully participate when developing a mandatory case and cultural plans (Required Action 20):

- for children who are in need of protective intervention under section 6(2)(a);
- for youth who have been in the director's care and are transitioning to independent living under section 6(2)(b);
- for the safety or care of a child under section 6(3); or
- for a support services to be provided to the family under section 6(3).

The Act recognizes the need for meaningful partnership between a child's First Nation Government(s) and Family and Children's Services to preserve the cultural identity and sense of community belonging. However, the Act does not say that the child's cultural and community

plan is mandatory. The child's cultural plan must be added to section 45(1) and be developed in partnership with the child's First Nation Government(s) (Required Action 21).

> *45(1) A case plan developed under section 44 shall include provisions respecting* ****the child's cultural and community plan****
>
> *(a) the placement of the child if out-of-home care is required;*
>
> *(b) services to be provided;*
>
> *(c) access to the child; and*
>
> *(d) time frames for matters addressed in the plan.*

The child's cultural plan must be developed at the same time as the child's mandatory case plan and must address:

- a plan for placement of the child with his or her siblings to maintain cultural identity and family connection;
- keeping siblings together and removing the barrier created by requiring a minimum number of bedrooms to do so;
- when placement together is not possible, then the plan must address maintaining contact between the child and his or her siblings, parents and extended family provided there are supports in place to deal with any risk of harm to the child; and
- children who are very young must not be placed in group homes with older kids who may violate them.

Section 7 must be amended to allow the Yukon Child and Youth Advocate (the "Advocate") or the Children's Lawyer to be one of the participants in the collaborative case planning process as the child's representative if the child or another participant requests it (Required Action 22).

We note that only the director's consent to a child's case plan is required under section 45(2):

> *45(2) When the plan is developed through a family conference or other co-operative planning process, the consent of the director to the plan is required.*

However, when a First Nation director has been appointed under section 173, the First Nation director must also consent to the mandatory case and cultural plans and the consent of the First Nation director will need to be added to section 45(2) (Required Action 23).

We also recognize the child's right to be heard when the mandatory case and cultural plans are being developed and:

- the child is not a member of a Yukon First Nation;
- the child's parents do not want the child's First Nation Governments(s) involved in the collaborative planning process; or
- the child or another participant asks that the child be represented.

Either a child lawyer or the Advocate must be appointed to represent the child through the collaborative planning process. The child's representative must be appropriately funded to sit at the table when representing the voice of the child (Required Action 24).

When parents do not want their First Nation Government(s) to be involved, there needs to be a respectful way to support the child while following the Act and this option must be clearly outlined and made available to parents (Required Action 25).

The Collaborative Planning Process

The Act refers to "co-operative planning". The purpose of co-operative planning is to develop a case plan for a child that serves the child's best interests. The case plan must take into account the family's wishes, needs and role, and the child's culture and community (see section 6 of the Act).

Co-operative Planning is defined in section 1 as:

> *"co-operative planning" is a collaborative, inclusive process, such as family conferencing, by which the parents, the child (if able to understand the process), extended family, First Nations (if the child is a member of one), and other persons (whether professionals or non-professionals), who are involved with the child collectively plan for the child.*

Co-operative Planning has focused primarily on family group conferencing to develop a case plan for the child, often to the exclusion of more effective types of planning.

"Co-operative Planning" must be renamed "Collaborative Planning" and the process must reflect true collaboration that will benefit the child and the family (Required Action 26).

The Collaborative Planning Process must be organized and facilitated by a neutral person who is not a part of and is at arms-length from the Yukon Government and who (Required Action 27):

- initiates the process when asked to do so;
- facilitates the meeting;

- writes down who was in attendance;
- take notes at the meeting;
- circulates the notes to the attendees following the session; and
- creates a "to do" list that is reviewed with everyone before the end of the session so the social worker, First Nation representative, support providers, parents, child and everyone else is in attendance is told and understands what they are supposed to do and when.

Section 6 of the Act says that the director *"shall offer"* co-operative planning. This must be changed in 6(1), (2) and (3) to allow anyone who would be invited to attend collaborative planning under section 7(1) to initiate the Collaborative Planning Process and (Required Action 28):

- request a collaborative planning session (if a child feels like they are not being heard, or a parent is not obtaining access to their child for example, they can call a collaborative planning meeting);
- request a flexible collaborative process that is relevant to the family's cultural and traditional ways (for example: a clan meeting, peacemaker meeting, circle, family meeting, on-the-land healing camp, mediation etc.);
- all participants must acknowledge that the process will take as long as needed to be effective and may take more than one meeting or session;
- each person will be provided with information about what to expect to prepare them for the process;
- the parent, child and family will each be encouraged to bring their support to assist with communication, understanding and advocacy when necessary;
- if the parent, child or family does not have someone who can attend with them, then an independent support person must be assigned to assist;
- the support person must be knowledgeable about the process so they can provide information and guidance to the person they are supporting; and
- the neutral facilitator must create a list of action items and timelines within which action items will be completed and check-ins and follow-up will occur (see Required Action 27, p. 19, above).

Trusting the Community Knowledge Base

We have looked at what is being done in other jurisdictions, and we have reviewed their legislative changes. We have read scholarly articles and looked at the good work that has been done elsewhere. However, Yukon made community-based solutions work best for Yukon people, so that has been our focus.

Each individual community has the willingness and experience to lead their own collaborative planning processes. Communities are invested in their children and their families and community support service providers have a lot to offer the family when they sit at the table and assist with the plan. Where they require help, is to build the capacity to do so within their community.

Each individual community is also aware of trauma and intergenerational trauma that has been experienced by some families within that community. The community and individual First Nation Government are better equipped to determine the type of collaborative planning including cultural camps and on-the-land healing that will meet the family's specific needs.

Partnership Between First Nation Governments and Community

Although the child's First Nation Government(s) are sometimes called when an indigenous child is taken into care, this does not happen in every case, and it does not happen consistently for every First Nation. First Nation Governments must always be involved right from the beginning (Required Action 29). We heard that many First Nation Governments are not included in the decision making and collaborative planning process from the beginning. This creates a huge gap in service – the family, the First Nation Government and the community are in the best position to provide guidance as to what supports are needed by the family.

The lack of capacity that we have already outlined is a major reason why individual First Nation Governments have been unable to respond in a timely way and participate as true partners. To achieve true partnership, capacity must be built at the community level (see Required Action 4, above, p. 8, above).

The First Nation Government and community can ensure the family is receiving the support, healing and services they need to succeed and remain together or reunite if a child has been removed from the home. Therefore, it is crucial that the individual First Nation Government and the community be involved from the beginning as a partner as we have already outlined.

Resources for Funding and Capacity Building

First Nation Governments require sustainable funding, resources and capacity to establish and administer services and support including on-the-land healing and cultural camps.

Huge expectations have been placed on individual First Nation Governments to provide this service with completely inadequate resources and limited capacity.

Partnership between Yukon Government and individual First Nation Governments allows for mutual learning. Yukon Government can build on these first-hand experiences and benefit from the First Nation's expertise. Mutual learning creates an opportunity to cultivate understanding and trust. This type of partnership helps to build strength in our communities by creating a connection through lived experience in a natural setting with the provision of dedicated resources.

Too many other things are getting in the way of building a strong relationship between our Governments, yet a strong relationship is at the very foundation of partnership. Strong relationships are required between Governments, and also between Government and support services providers. Governments need to be able to draw on the many supports and services that are available in our community to support children, youth and families.

When Yukon Government and First Nation Governments are working in partnership consistently, they will collaborate in hiring independent facilitators, mediators and psychologists; social workers and people who are in senior positions in Family and Children's Services. This is important to ensure the people who are hired are knowledgeable about Yukon First Nation history and culture, have training in trauma response and are the right fit (Required Action 30).

The First Nation Government is often in the best position to identify the wrap-around support services and needs-based support planning for the family to keep the child safe in their home.

Examples include:
poverty and inadequate housing[2]; help with groceries, housekeeping, cooking; assistance when there is a need to build upon parenting skills and life skills; the need for respite, particularly when the child is high needs; the need for healing through on-the-land camps and other forms of healing that are tailored to the family. Sometimes it will be important for the whole family to participate in a healing camp, or "*to just camp together so we can learn how to be a family*."

> *"It is the job of both partners to take what has been broken apart and to make it whole again" Ray Sydney and Rose Rowlands, CFSA Advisory Committee Members.*

The least intrusive and most effective form of support must be provided to families (Required Action 31). This requirement is set out in the guiding principles and it is also clearly stated in section 34 of the Act:

> *"The director shall balance the potential harm to the child from staying in the parent's home against the potential harm from being removed from the home."*

[2] *See also The National Housing Strategy Act, June 2019*

Out-Of-Home Placements

When both parents have capacity to have input into the out-of-home placement of their children through the development of the case plan, they must be involved. When parents are not available or in a frame of mind where they can provide this input, the family must be involved (Required Action 32).

The community and the individual First Nation Government have the knowledge to identify out-of-home placements and emergency care homes in the child's community. They must be consulted by Yukon Government as partners when determining appropriate community placements (Required Action 33).

Children have the right to maintain contact with their family and community.

> 89(2) *In determining the placement for the child as part of the case plan developed under section 44, priority shall be given to placing the child with a member of the child's extended family, or if that is not consistent with the best interests of the child, priority shall be given to placing the child as follows:*
>
> *(a) in a location where the child can maintain contact with friends and members of the child's extended family; and*
>
> *(b) in a location that will allow the child to continue in the same school.*

One child spoke to us about what they liked about living in their community…..*"My friend lives next door."* The increased use of extended family care agreements is helping children to remain in their home communities with grandparents and other relatives.

Although it is not common knowledge, we heard there are a few emergency child placements that are paid daily (currently $30/day) to provide 24/7 availability. With adequate funding and awareness of this option, each community will be able to provide emergency on-call placements for children. When the community and the Yukon Government work in partnership, these support networks can be built and maintained through core funding (Required Action 34).

Historically, western standards have been imposed on First Nation people. This has led many to question:

> "*Whose lens is being used to look at the criteria for providing care to kids?*"

The home children are placed in sometimes poses a greater risk to the child than if the child remained in their family home with the supports needed.

In addition, we heard repeatedly that the application process to be a foster home or out-of-home placement is intrusive, onerous and intimidating. The current process is a huge barrier to

people who want to apply. We have reviewed the 40-page application and we agree. Some of the reasons that were described to us are:

- front-line workers told us the application is not user friendly or Yukon-made;
- the application process must be looked at with a community lens, First Nation lens and front-line worker lens because they are the ones who know both the applicants and the families who will be accessing the service;
- people are left waiting for months after they have applied and sometimes are not provided with any response to the application. There needs to be a much shorter turn-around time;
- people who apply to become an approved out-of-home placement are not provided with the assistance they need to complete the application;
- people who have an aged criminal record that is not relevant to their ability to care for children are prevented from being approved and the process fails to consider how some applicants have completely turned their lives around;
- similarly, past addictions and past involvement with the child welfare system automatically screen people out of the application process even though they may have completed their healing journey and could provide a solid placement option;
- many of the questions and criteria that appear in the current application are not relevant; and
- the number of bedrooms that must be available before being approved as an out-of-home placement is problematic for many families and is not what they grew up in as children[3].

In partnership with individual First Nation Governments and community, a foster care application that is short, specific and relevant to the Yukon must be developed (Required Action 35).

Challenges with Out-Of-Home Placements

The barriers do not stop with the foster care application process.

Foster parents said they need to be provided with a list of funding opportunities and support services (some examples are: funding for moccasins and regalia, and travel opportunities to connect with a child's home community and First Nation). In addition, the child's First Nation

[3] This standard is from the National Occupancy Standards and the *National Housing Act*.

must be consulted to provide accurate information about regalia design or language, for example, that is representative of that child's specific and individual First Nation, culture, language and heritage.

Foster parents have also asked to be provided with information from the child's individual First Nation(s), so they have an accurate and informed understanding of traditions, feasts, gatherings, activities and ceremonies (Required Action 36).

Foster parents said they need a place to share this information, and to be connected with other foster parents. One way this can be achieved is to have an interactive website that provides foster parents with a list of funding opportunities and supports, and a place where questions can be asked and answered, and information can be exchanged (Required Action 37).

If the child's mandatory case and cultural plans is reviewed monthly (see Required Action 58, p. 35, below) foster parents will have more frequent access to social workers and support services.

Some foster parents have told us that if the children are "doing well" the foster parents and the children in their care are often left on their own without check-ins or follow-up, and without information about accessing additional supports. Grandparents who have children in their care have told us this as well.

Foster parents have also said they need help to maintain connections with the child's family, community and individual First Nation. With more consistent reviews, and once a true partnership between the Yukon Government and individual First Nation Governments has been established, these connections will be easier to maintain.

Children in out-of-home placements may experience greater normalcy if there are options for the grandparent or foster parent to go to the First Nation office or to someone within the community to obtain approval for the child to attend birthday parties and other activities (Required Action 38).

We have heard there are sometimes double standards between children who are biological to the foster parent and the children in their care. Monthly reviews of the child's case plan will allow for follow up by supervisors to ensure children are treated equitably within the same foster home (see Required Action 58, p. 35, below).

Custom Adoption

A custom adoption is cultural and involves a different process within each First Nation. The process followed in a custom adoption must therefore be left to the individual First Nation Governments.

We have heard that some First Nation families are doing custom adoptions and must be left to continue with their traditional practice if they choose.

Families must be educated about all of their options including custom adoption which can be done by the First Nation Government and approved by the court under section 134(1) of the Act (Required Action 39).

However, since the adoption is by custom, there is not and should not be a requirement that it be court-approved – whether the adoption is court-approved must be left up to the family and the First Nation.

In the spirit of partnership, the Yukon Government must provide support – whether it is financially or through capacity – to the family or the First Nation in processing the custom adoption when asked to do so by the family or the First Nation. This may arise in situations where a change in birth certificate is needed or where the family requires an order to allow travel with the adopted child (Required Action 40).

> *"We are talking about cultural appreciation, not cultural appropriation" Rose Rowlands, CFSA Advisory Committee Member.*

Adoptions Generally

It must be acknowledged and understood that adoption is an area that is shrouded in fear and distrust for many First Nation families. This fear is based in lived experience, forced assimilation, and the loss of culture and identity.

We heard that when a child is in a stable out-of-home placement with the consent of the family, there should not be a threat of adoption placed on the family or on the child.

Connection with community, language, culture and identity are important whether the child is in an out-of-home placement or adopted.

When adoption is being considered, the focus must be on maintaining stability for the child. Stability for the child may mean that:

- there be flexibility and a softening of the hard timelines around how long a child can stay in an out-of-home placement before being placed for adoption;
- siblings be kept together (when the relationship between siblings is positive and when adoption is being suggested for one sibling);
- connection be maintained with parents and extended family, community, language and cultural identity; or

- that a connection be maintained with the foster family and foster siblings

(the bullets all form part of Required Action 41 – maintaining stability for the child).

Adult Adoptions

Section 130 of the Act addresses adult adoptions. The Act eliminated Family and Children's Services involvement in adult adoptions. In spite of this, we have heard that Family and Children's Services continues to be involved by requiring a criminal records check, and a meeting with Family and Children's Services prior to the adult adoption. We have also heard that section 120(1) is being applied to adult adoptions which means that Family and Children's Services is making a recommendation to the court about whether an adoption order should be made.

These are unnecessary and intrusive steps when the adoptee is an adult. The only requirement in section 130 is that the adult consent to being adopted. We would change section 130 to add that the adult must be advised of their right to seek independent legal advice before signing the consent (Required Action 42).

However, Family and Children's Services must have no involvement with the family when the adoptee is an adult. The internal policy that requires a criminal records check, a meeting with Family and Children's Services and a recommendation being made to the court before the adoption is made must be eliminated (Required Action 43).

PREVENTIVE INTERVENTION

"Compassion and caring - a strengths-based approach"

Preventive intervention appears in the guiding principles. Given its placement in the guiding principles, "prevention" must be given a prominent role in service and delivery of supports and programming. Section 2(l) of the guiding principles says:

> *2(l) prevention activities are integral to the promotion of the safety, health and well-being of a child.*

Although prevention activities are "integral", the Act says very little about prevention. To recognize how "integral" preventive intervention is to safety and well-being, it must be given greater prominence by being written into the Act, policy and regulation in partnership with individual First Nation Governments and communities (Required Action 44); (see also Required Action 1, p. 5, above).

"Prevention" also appears in section 175(2) which states that:

> *175(2) A director shall, where appropriate, work with community agencies or other committees that have been established, to cooperate in the planning and delivery of preventive and support services to families and children.*

When the community requires assistance from the director, they can ask for it under section 175(2). Communities must be made aware that they can ask for this type of assistance and that it "shall" be provided according to the Act (Required Action 45).

Prevention must be the basis for Yukon Government's statutory obligation to provide support in the most effective and least intrusive way while keeping children safe and preventing removal from their homes, communities, and families.

The guiding principles recognize family as the primary source of a child's safety, health and well-being which will be enhanced by preventive intervention. Section 2 states that:

> *(e) family has the primary responsibility for the safety, health and well-being of a child;*
>
> *(f) a child flourishes in stable, caring and long-term family environments;*
>
> *(g) the family is the primary influence on the growth and development of a child and as such <u>should be</u> (change to <u>must</u> be) supported to provide for the care, nurturance and well-being of a child;*

(h) *extended family members should be (change to must be) involved in supporting the health, safety and well-being of a child; and*

(i) *a child, a parent and members of their extended family should be (change to must be) involved in decision-making processes regarding their circumstances* (see Required Action 80, p. 45, below).

Traditional Practices and Healing Options

We have repeatedly heard there is a need for Yukon-based, traditional healing options so that families can heal in their own communities and not be sent outside of the Yukon to heal. There is currently no option for family healing in the Yukon. There are many possibilities including on-the-land camps and therapeutic interventions that are individualized to meet the family's needs and preferences. If healing services are Yukon-based, in the family's home community, support will be ongoing.

A multidisciplinary approach acknowledges that indigenous ways of healing are welcoming and holistic. We have seen repeatedly in the literature that a more holistic approach can be a more beneficial approach to take. However, the lens that is sometimes used to look at culture camps can be jaded and judgmental. For example, we have heard comments along the lines of *"they're just going out camping and the Government is paying for it"*.

The programs must be designed to meet the client's needs. Sometimes a western approach will be most beneficial; sometimes an indigenous approach will be most beneficial; and sometimes the situation will require a blending of both approaches.

To set families up for success, they need Yukon-based healing and detoxification services that are easier to access. Relapse and multiple attempts at treatment often form part of the healing journey. There is limited access to Yukon-based healing programs and there are often waitlists to obtain services outside of the Yukon. The result is that many families are not being provided with the best chance to succeed. We have heard that, when treatment is Yukon-based, relapse prevention will be accessible; the ability of the individual First Nation, community, and family to provide on-going support will be strengthened.

Communities said it is difficult and unrealistic to send someone from the community to Whitehorse, or outside of the Yukon to receive treatment and access healing options. Often when they return, they are sent back to their community and expected to thrive and maintain their healing journey without access to supports. When options are available in a person's home community they can be accessed whenever they are needed.

We have heard from Elders that, when language is spoken, and stories are told; when traditional food is offered and prepared in traditional ways, children and parents learn just by being present. This creates a renewed love and respect for traditional ways, culture and nature and re-establishes the connection to the land.

Each Yukon First Nation Government must have the autonomy with adequate resources to plan and run their own cultural, healing and on-the-land camps (Required Action 46). Traditional ways have been used and passed down through the generations for a reason. Residential school and the colonial systems caused huge trauma and a break in the transfer of knowledge, culture and tradition to younger generations.

We heard this request from people who grew up in residential school:

> "*Teach us to look after our kids. We didn't learn to be parents and now it's first, second and third generation. We teach our kids what we know. What needs to be taught here are life skills – the things we weren't taught in residential school.*"

We also heard many different versions of:

> "*The problem with services being delivered is they are neglecting our people and our children – all over Canada*", *Yukon First Nation Elder.*

People who need help must be able to access these camps without barriers. There should not be a long list of criteria someone has to meet before they can attend. If a person or a family has been cleared medically, they can attend (Required Action 47).

When there is core funding for these camps, that will create opportunities for employment and healing, and they will give people back the cultural identity that was taken away by residential school and colonization.

We have heard many stories of families, whether or not they are First Nation, healing trauma just by being on-the-land. We have also heard that being on-the-land provides a place where families can re-connect with nature, work together, and create opportunities for interdependence that may also help to re-establish trust with one another.

When they are on-the-land, parents, children and youth are provided with an opportunity to develop life skills and establish self-reliance.

When on-the-land camps are Yukon-based, it will remove another barrier. We have heard that when a parent or youth is on probation it creates a barrier – the person who is on probation cannot leave the Yukon to attend healing programs. This stalls the process and ultimately delays reunification. A person should be able to attend camp alone or with family members if that is what they need to heal, and a lack of funding must not be raised as an additional barrier (Required Action 48).

Individualized Community Prevention Plans

Each community is best suited to access and develop their own programs, including camps, based on the individual community's traditions and needs in a culturally immersive way. We

are not talking about a centrally administered "one size fits all" type of programming. There could be day programs, multi-week programs, individual programs, no-criteria camps, cultural camps, on-the-land healing camps, health and wellness camps to name a few. The key is that the decision is made by the community about what will meet that community's needs and how services will be delivered (see Required Action 45, p. 28, above).

We heard that children never forget the culture camps that are offered in school and by their First Nation. These camps are a powerful tool.

There needs to be a choice. As stated above, there is room for both traditional and westernized ways of healing. Traditional ways have been used for generations; sending someone to heal through a therapeutic intervention in an institutionalized setting, although helpful to some, can result in more trauma and no healing for others. That is why choice is so important.

At 3(d) and (k) the Act states that the following principles apply to the provision of services to Yukon families:

> *(d) communities should be (change to must be) involved in the planning and delivery of programs and services to their residents; and*
>
> *(k) the safety and well-being of a child is a responsibility shared by citizens"*

Since each Yukon community is the best architect of the changes that need to be made. Communities know their families, their needs, and their priorities. Therefore, *"should be involved"* in 3(d) needs to be changed to *"must be involved"* (Required Action 49).

Although already stated in the Commentary, this quote is worth repeating:

> *"People take ownership of solutions they are a part of, not the solutions that are dictated to them."*

The following preventive interventions were identified by Yukon communities (Required Action 50):

- Education: People need to know what support is available to them so they can access those supports through preventive intervention.

- Safety Houses (Shelter): A short term community safety house that is open to families. A place where a parent can go with their child and youth can go when they cannot go home, and where children can go when they need a safe place to stay.

- Designated Emergency Care Homes: A home environment, not institutionalized care that can be used for respite, emergency care, crisis intervention, and supervised access.

- Housing: Safe, affordable, accessible housing for families (this need was identified in every Yukon Community)[4].

- The Working Poor: Ensure that families receive equitable support and are not screened out from receiving assistance because they are over the minimum income threshold.

- A Guaranteed Minimum Income: Children should not be taken into care due to poverty. We heard that only poor people have their children taken away. *"Poverty should not be a reason to take children into care", Yukoner.*

- Recreational facilities: Are needed in the communities that accommodate the schedule of families, children and youth. Funding to assist with more staff and longer hours is a prevention measure that communities have identified as a priority.

- Traditional healing practices: Can heal in ways that other practices cannot. These practices work for most people, and traditional healing practices must be supported.

- Traditional parenting programs: That are linked with on-the-land camps and the transfer of traditional knowledge, culture and practices in accordance with the Truth and Reconciliation Commission ("TRC") calls to action.

Our communities and individual First Nation Government know what prevention looks like and they are eager to put that knowledge into action to the benefit of their citizens and Yukon families, youth and children.

[4] *See also, The National Housing Strategy Act, June 2019.*

SUPPORT

"It's different for everyone"

It is significant that the name of the Act was changed in 2010 to *"The Child and Family Services Act"*. It is not called the *"Child Welfare Act"* or the *"Child Protection Act"*. The title tells us that the intention behind the Act is to provide *services* to children and families. This change in the Act was a huge shift and when the Act came into force 9 years ago; it may have been too progressive for its time. It has taken time to get a handle on the changes that need to be made in the system to mirror the changes that were made in the Act.

Data

We have heard that data under the Act is collected manually. We have also heard that the Yukon Government is making changes to improve data collection and storage, and we support that change. When there is good data, resources will be funneled into programs and supports that are working for parents, children and families.

To be consistent with the TRC calls to action, the data must also show the reasons for apprehension, the total spending on preventive and care services by child-welfare agencies, and the effectiveness of various interventions that have been undertaken (Required Action 51).

Data and evaluation over the long-term will provide information about changes that result from focussing on preventive intervention. Data must be collected and evaluated from this perspective and the information must be shared publicly (Required Action 52).

Support for Parents and Families

Parents need the support of the Yukon Government, their individual First Nation Governments, and other support providers so they can be part of the solution and reduce barriers for success.

Front-line workers have contact with families, children and youth to provide supports and services. We have heard that front-line workers have to obtain consent from a supervisor to provide for basic needs such as bus passes, food, gas, cell phone minutes and recreational passes. To provide ongoing support and emergency funding to meet people's day to day needs, this barrier must be removed (Required Action 53).

When the citizen does not want their First Nation Government to be involved there needs to be a respectful way to support the citizen while following the Act (see Required Action 25, p. 19, above).

Proposed Facilitator/Navigator Position

The navigator will be aware of all of the supports and services that are available to the family depending on the family's specific needs. In addition to a family support worker, we heard that there needs to be navigator within each community to facilitate connecting the family with

their individualized supports. The navigator is a person who lives in the community and is adequately and additionally funded by the Yukon Government. Funding a facilitator/navigator position will assist with community capacity building. The job description must be developed in partnership with the community and must not be added as additional work to an existing position (Required Action 54).

Family Support

There should be a family support line that people can call for assistance from their first point of contact and onward. Much like 811 and 911 this support line would be accessible to all people at all times and staffed by an independent person who provides 24/7 access to children, parents and family members to obtain information. The support line would advise the caller of the supports that can be accessed in addition to their right to obtain legal advice (Required Action 55).

We have also heard that people do not know where to go when:

- a decision has been made that they do not agree with;
- they have a complaint;
- their phone calls aren't returned; or
- they request support or information and they do not receive answers.

Independent Community Review Panel

Currently, people do not know who to contact or where to go when they disagree with a decision. A body like an Independent Community Review Panel is contemplated in the Act under the "Service Delivery Principles", section 3(g), however, it has not been created:

> *3(g) a child and members of the family and extended family should have an opportunity to seek a timely review of decisions made under this Act which affect them.*

"Should have" must change to "must have" in section 3(g). The Independent Community Review Panel must be developed by Yukon Government in partnership with individual First Nation Governments. There needs to be a clear, easy and fast-tracked process for people to use to meet section 3(g) of the service delivery principles (Required Action 56).

The creation of an Independent Community Review Panel will lead to greater transparency and accountability and reflect what the Act says.

Once developed, the public needs to be educated about the existence of the Independent Community Review Panel, the right to legal advice, and the right to seek a timely review of

decisions made under the Act. This will also be noted in the education section of this report (see Required Action 74, p. 42, below).

Assessments

The point of conducting the assessment in the first place is critical. Assessments must be used to support family well-being including healing and wellness. We have heard that assessments are sometimes used as evidence against the parents to justify children being removed from the home. Assessments must be strengths-based and used for preventive intervention and identification of appropriate and necessary supports.

When assessments are used in a way that supports the parents and the family, they are more likely to participate.

> *"Family assessments are very, very, very invasive and detailed while some other jurisdictions that are not Yukon have a much simpler, less cumbersome, less intrusive, less expensive assessment process", Yukon Front-Line Worker.*

Assessments must be developed with a focus on the needs of the child and family, in partnership with community, non-profit organizations and First Nation Governments. This applies to family, out-of-home placement, and parenting assessments (Required Action 57).

Review of the Child's Mandatory Case and Cultural Plans

Section 186(1) must be amended so that the mandatory case plans and cultural plans are reviewed in partnership on a monthly, not yearly, basis (Required Action 58). We heard that although mandatory case plans and cultural plans – when they are used – are not regularly reviewed.

Families want more frequent reviews to ensure their children do not languish in care or in out-of-home placements. Frequent reviews also allow supports to be maintained and enhanced to meet the family's changing needs and circumstances. This is more likely to occur when:

- there is consistent follow up;
- incentives and feedback are provided to the parents or extended family on an ongoing basis to acknowledge the good work they have been doing;
- families have a better chance of remaining engaged;
- hope can be cultivated;
- relationships are built between workers and families and trust is developed;

- children in out-of-home placements and caregivers who are "doing well" continue to receive attention and support they may not receive when there is not a crisis;

- ongoing connection to family, community and culture are maintained when plans are made and consistently supported;

- the parents' efforts toward reunification are celebrated and validated so the family can continue to gain momentum toward reunification;

- there is pro-active planning and prevention instead of "putting out fires" and being in crisis mode;

- there is accountability from all partners in following the child's case plan and together providing the supports they agreed to provide; and

- communities, as partners who are at the table to review the mandatory case and cultural plans on a monthly basis, will help determine how best to repatriate and reunify children with their home community.

For youth who are transitioning out of care, ongoing planning assists them in learning to live independently. Through more frequent reviews, the skills a youth needs to live on their own will come to light, whether they need to learn how to: build a resume, cook, pay bills, obtain a driver's license, or status card.

Supporting Children

The Advocate is an important resource for all Yukon children.

Case plans for children who are not indigenous will require participation by the child and by someone who will advocate for the child such as a child lawyer, the Advocate or a support person who the child trusts. The Advocate should also be included if the family does not want the child's First Nation(s) involved in the collaborative planning process.

As already outlined, there must be core funding provided to the Advocate or the Public Guardian and Trustee (see Required Action 20, p. 17, above) (when a child lawyer is appointed) to ensure that children are represented in the case planning process by a neutral and independent person whose focus is to represent the voice of the child. Children's views need to be respected. If a child is saying "no" to an extended family placement, for example, these requests should not be ignored and must be considered.

Supporting Youth

There is often very little planning for youth in care who are transitioning from the care of the director to independent living. This is referred to as "ageing out". It has been suggested to us that the term "ageing out" be eliminated because children must be supported for as long as

they need to be supported (Required Action 59). We have heard this message in a variety of ways:

> "*We need to hold their hand as long as they need it held. It's going to be different for everyone*", *Yukon First Nation Elder.*
>
> *"Children on our traditional territory don't age out", Yukon First Nation Elder.*
>
> *"Children of all nationalities rely on their families no matter what their age", Yukon Elder.*

Under the Act, youth who are between the ages of 16 and 19 need to know that they can enter into a youth support agreement (see section 16(1) of the Act). Youth must also be told that support can continue beyond the age of 19, to the age of 24 (see section 17(1) of the Act). The age of 24 needs to be revisited depending on the capacity of the youth who is accessing support (Required Action 60). Supports should continue beyond age 24 for youth with disabilities, including those with Fetal Alcohol Spectrum Disorder ("FASD") (Required Action 61).

When the youth's mandatory case and cultural plans are reviewed on a monthly basis through a collaborative planning process in partnership with the youth's First Nation(s) and community supports (see Required Action 58, p. 35, above), plans for the youth to live independently will evolve over time and already be in place when the youth turns 19 (Required Action 62).

Youth need to be engaged in the creation of their mandatory case and cultural plans to prepare for transition as active participants. Youth need a safe and supported environment where they can feel comfortable in expressing their individual needs and views. Youth must be engaged in ways that make it comfortable for them to respond and trust that their views will be respected (Required Action 63). The Act proposes a collaborative process, however, that process must be consistently used so that youth are no longer left without transitions plans:

> *6(2) A director shall offer the use of a family conference or other co-operative planning process*
>
> *(b) as set out in subsection 18(2), when developing a case plan for a child leaving the custody of the director.*
>
> *18(1) A director shall develop a written transitional case plan for a youth in the custody of the director in order to plan for the youth leaving the director's custody when they reach 19 years of age.*
>
> *(2) In developing the plan, the director shall offer the use of a family conference or other co-operative planning process referred to in section 6 before commencing the planning.*

(3) When the plan is developed through a family conference or other co-operative planning process, the consent of the director to the plan is required.

The youth's First Nation Government and supports need to be adequately resourced to sit at the table to create these mandatory case and cultural plans through the collaborative process (Required Action 64). As already stated, these plans must be reviewed monthly so the plan will be in place well in advance of the transition date.

Youth are entitled to transition services under the Act when they are transitioning to independent living:

10(2) Transitional services or services to support youth provided under this Division may include

(a) counselling;

(b) independent living skills training;

(c) educational training supports; and

(d) facilitating connections to appropriate educational or community resources.

Youth have a right to be supported so they can:

- remain in their home community;
- transition to their home community when they have had to leave because there is no other choice;
- succeed in living independently; and
- successfully transition to adulthood.

When a child is removed from their community and placed in care, financial support must follow the child back to their community when they return (Required Action 65). Currently, when a child returns to the community, the financial support ends and the First Nation Government and community are not in a position to carry on the funding. The child is left without financial support and they end up couch surfing and doing whatever they can to support themselves. The Yukon Government has assumed the role of parent for children in care and must therefore continue to support them.

Housing and Case Planning for Youth

Communities would like to see Youth Support Centres (Required Action 66).

This is a place with a community kitchen where Elders and community members can also participate by cooking a meal, teaching life skills and connect with community. It has been suggested that the Centre have sleeping accommodation for Elders and family space to stay overnight. The Youth Support Centre is a place where youth can go to learn skills and be mentored to become self-supporting and independent adults.

We have heard that an Elder's hug, hearing stories, mentorship and having a home-cooked meal creates connection to community and identity.

Youth can become institutionalized in group homes and, without support for the development of life skills, they reach the age of 19 and do not know how to live independently which can make them vulnerable.

> *"Navigating life after being aged out is difficult without support because they just drop you", quote from a former child-in-care*.

We have heard that some communities are investing in tiny home projects. If a tiny home project is established for youth who are transitioning out of care to independent living, they are given the opportunity to channel their talents into areas where they can have success: artistically, academically, culturally, technically and also have a place to live. Communities need to be supported by Government financially and otherwise to think innovatively and to make a plan to provide the best options for their youth (Required Action 67).

We have also heard the need for community-run residential homes for youth. Community-run residential homes can be an emergency placement option, and also provide a home for youth in their home community as a Yukon Government supported initiative (Required Action 68).

Accessing Financial Support

We heard that the length of time it takes people who access financial support through the Yukon Government to receive the money is a huge barrier:

- family members and caregivers pay for necessities from their own pocket and wait months to be reimbursed by the Yukon Government; and

- not all caregivers have the means to pay upfront and then wait months to be reimbursed. The only alternative is to go without.

The Yukon Government must correct this problem and remove this barrier immediately (Required Action 69).

We have also heard that some families have had their supports removed as soon as they start to do well. These families have been told they are becoming "dependent" just when they are starting to get on their feet. Removal of support when a family is starting to make progress erodes their trust and sets them up for failure. They are less likely to ask for support when they need it because they have lost faith that it will be provided.

In addition, what often happens is that a program is not given enough time to succeed or, if it is a good program the funding runs out and the program lapses. We heard that programs that are working to benefit children and families must be financially supported through core-sustainable funding that continues (Required Action 70).

Individual communities and First Nation Governments do not have the human and financial resources to be self-determining. Financial and human resources and housing for citizens and workers must be transferred to the communities as a priority required action item to result in real change and capacity at the grassroots level (see Required Action 4, p. 8, above).

Supporting the Worker

Workers on the front-line in Yukon Government, First Nation Governments and NGO's need and deserve to be supported in their roles given that their jobs are difficult, time consuming and sometimes thankless. Simple things like being able to have the authority to provide purchase orders (PO's) or acquisition orders (AO's), or have petty cash on-hand will go a long way to assist in meeting needs on a day-to-day basis.

Front-line workers provide supports and services to families, children and youth. Front-line workers must be educated about the broad range of support and services they can provide (Required Action 71).

Social workers want to have opportunities to share information in ways that respect privacy and confidentiality while encouraging the development of best practices. This needs to happen both internally, with their First Nation counterparts, and inter-jurisdictionally (Required Action 72).

Supreme Court Custody Proceedings – Separation and Divorce

We have heard that Family and Children's Services tends not to investigate allegations made by one parent during separation. We have also heard that Family and Children's Services has sometimes said they cannot assist the family with support (such as providing an acquisition order (AO) for groceries) when there is an ongoing custody application.

We have also heard that the parent who is asking for support or who is making an allegation will be told *"we do not get involved in "custody matters""*. The problem with this policy is that the child continues to be in need of support, to have risk assessed or to be protected although his or her parents have a separate proceeding going on at the same time. The child's safety and

support must be the focus. Families and children must be able to access supports and services, and to request the assistance of Family and Children's Services even when a Supreme Court proceeding is happening due to the parents' separation (Required Action 73).

EDUCATION

"Knowledge is power"

Public Education

Yukon needs a massive public education campaign to be developed in partnership with community and First Nation Government partners to provide information about the supports offered under the Act and by First Nation partners in a variety of ways. This must occur in every Yukon community every year as it provides an opportunity for community members to participate (Required Action 74):

- Yukon-wide workshops led by Yukoners who have expertise to educate community members *about the Act including the importance of the guiding principles, support services that are available to them under the Act and offered by individual First Nation partners;*

- legal advice provided at the workshop to educate parents, children and families about their right to obtain support services in the least intrusive way to keep their family together while ensuring their children are safe;

- legal advice prior to entering into voluntary agreements and consent orders with the director and any time decisions have been made for the family;

- education about the consensual resolution mechanism in section 8 of the Act (consensual resolution is addressed later in this Report);

- education about the right to seek review by the Independent Community Review Panel when decisions have been made;

- a simple video that can be accessed online between workshops that lets people know:

  "Here are the support services available…."
  "You have the right to legal advice before signing agreements…"
  "If you need legal advice, click on this link to be put in touch with a lawyer…."
  "If you need support this is where you go for help….."
  "If this is happening, click here for more information on the services that are available to you…."

- a pamphlet/one-page check list/consent form that outlines the information that must be provided to the family, covering, at a minimum, the following topics:

  - Have I been told I have a right to talk to a lawyer?
  - Have I been advised of my right to talk to a lawyer before I sign anything?
  - Do I understand my rights, and can I tell you what they are?

- What resources can I access for me and my family?
- What supports are available to me and my family?
- Do I understand the supported planning process?
- What is family group conferencing?
- Is family group conferencing the only option for a group meeting process?
- Where can I go if I disagree with a decision that has been made?
- Do I have a right to mediate or do I have to go to court?

Education About Supports and Services

Once the changes we have outlined are made to the Act (see the Required Actions in Support pp. 33-41, above), families and children will need to be educated about their support options:

- The proposed facilitator/navigator;
- The proposed family support line;
- Jordan's principle – people need to be educated about Jordan's principle so that it can be fully implemented in accordance with the TRC calls to action;
- Supports available;
- Right to legal advice;
- Consensual Resolution; and
- The Independent Community Review Panel.

Education About the Act

On the one hand we heard that the Act is good, and on the other hand we heard that people do not know what the Act says. Many people do not know that the new Act was put into place in 2010 and that it replaces the old *Children's Act*.

The content of the current Act is a mystery to many. People do not know about the guiding principles or the supports and services available under the Act.

Children, parents, grandparents, extended family members and foster parents need to know what the Act says. Many people are unaware that, under the current Act, they can already ask for and receive the support services they are asking for.

Many people think they can only access support if the director has taken their child into care, yet that is not what the Act says. Children and families need to know that support will be provided to them when they need it, in a way that is most beneficial to their family while ensuring their children are safe from harm.

Section 10

There does not have to be a child protection concern for families to access the programs and services they need to stay together. Yukon people and workers including experienced social workers, managers and front-line workers, must be thoroughly informed about and made

aware of the supports available to maintain and promote the integrity of the family unit (Required Action 75).

Section 10 of the Act says:

> *10(1) The purpose of services and programs provided under this Division is to promote family integrity and provide support to families and children whether the children are residing at home, residing with extended family, are in out-of-home care, or have returned home, these services and programs may include*
>
> *(a) services for children;*
> *(b) counselling;*
> *(c) in-home support;*
> *(d) out-of-home care;*
> *(e) home-maker services;*
> *(f) respite care;*
> *(g) parenting programs; and*
> *(h) services to support children who witness family violence.*

"May include" means "*and are not limited to*" the services and programs that are listed. The section must be changed by adding *"and are not limited to"* after the words "may include" to signal that the list can and should be expanded to meet the specific needs of the family (Required Action 76).

Section 11

Yukon people must be made aware that support agreements are available to help them in various situations (Required Action 77).

Section 11 of the Act says:

> *11(1) A director may make a written agreement with a parent who has custody of a child to provide support services to maintain the child in the home, to prepare for and facilitate a child's return home while the child is in out-of-home care, and to support the child and family where the child has returned from out-of-home care or from any other living arrangement.*
>
> *(2) The initial term of the agreement shall not exceed six months, but the agreement may be renewed for terms of 6 months each.*

These support services are available to all families. Section 11(2) provides for review of the support agreement every 6 months which allows for long-term support when needed. These reviews must be followed up and cannot be ignored (Required Action 78).

Youth must also be educated about the support agreements that are available to them between the ages of 16 and 19 (see Section 16(1) of the Act), and between the ages of 19 and 24 (see Section 17(1)) (Required Action 79).

As stated in the Commentary, individual First Nation Governments have the ability to delegate their authority to a central organization (sections 168 and 169). First Nation Governments should have the ability to build capacity through autonomy and self-determination and be advised about their options in this regard (see Required Action 3, p. 7, above).

The Guiding Principles

Many people are unaware of the guiding principles or that they focus on keeping families together by wrapping them in what one community member described as *"a warm blanket of support"*. The purpose of the guiding principles is to provide for preventive intervention to keep children safe and to be the overarching direction for the operation of the Act. The guiding principles, in Section 2 of the Act say:

> *(e) family has the primary responsibility for the safety, health and well-being of a child;*
>
> *(f) a child flourishes in stable, caring and long-term family environments;*
>
> *(g) the family is the primary influence on the growth and development of a child and as such should be (change to must be) supported to provide for the care, nurturance and well-being of a child;*
>
> *(h) extended family members should be (change to must be) involved in supporting the health, safety and well-being of the child;*
>
> *(i) a child, a parent and members of their extended family should be (change to must be)involved in decision-making processes regarding their circumstances; and*
>
> *(l) prevention activities are integral to the promotion of the safety, health and well-being of a child.*

It is a recurring theme in this report that, to uphold the spirit and integrity of the Act, the words "should be" must be changed to "must be". This must also be done in sections 2(g), (h) and (i), above (Required Action 80).

The supports each family can access in section 10 of the Act (when there are no child protection issues) promote the family as the child's primary connection. The Act is clear that wrap around

support and preventive intervention are available to keep families together. *However, many people have come forward to say this isn't the case.*

Service Delivery Principles and Section 34

We have heard that Yukon citizens are unaware that section 34 of the Act states:

> *"The director shall balance the potential harm to the child from staying in the parent's home against the potential harm from being removed from the home."*

Yukon citizens must be informed of the directors' mandatory obligation. This must be done through the community education workshops (Required Action 81). The director(s) must also ensure that the mandatory obligation to balance the potential harm in removing the child against the potential harm from the child staying in the home is applied in every single case (Required Action 82).

In addition to section 34, the Act also says:

> *3(b) families and children should receive the most effective but least disruptive form of support, assistance and protection that is appropriate in the circumstances.*

To respect the intention of the Act to keep children safe, to keep families together and to focus on prevention, the language in 3(b) must change so that families *"must receive the most effective but least disruptive form of support, assistance and protection".* In addition, the "but" in 3(b) must be changed to "and", otherwise everything that appears before "but" is negated. This change will make section 3(b) consistent with section 34 (Required Action 83).

When resources are re-directed to support the family in a comprehensive way that focusses on prevention (Required Action 84); removing children from their home and their family should be the last resort, and the purpose of this section would then be achieved.

What is Available to Grandparents and Extended Family

We have heard that Grandparents often care for their grandchildren when the parents are unable to do so to ensure they maintain connection to family, community and culture. Grandparents are sometimes unaware of the supports and services that are available to help them raise their grandchildren under section 10. They may also be unaware that they can enter into an extended family care agreement (section 14), or a family support agreement (section 11).

Many Grandparents and extended family members do not access supports and services because:

> *"we are afraid our children will be taken away if we ask for help".*

This is a quote that we heard from many, together with a consensus that it is:

> *"almost impossible to get our children back if they are taken away"*.

Grandparents are often afraid to enter into agreements. Their fear could be abated by knowing that there is a safety net available to them through the provision of support services.

Grandparents also told us they are reluctant to enter into agreements for a number of reasons:

- they are afraid to tell anyone they have their grandchildren for fear of increased scrutiny of the family;
- they are afraid of government involvement and intrusiveness due to past experience with residential school and the 60's scoop; and
- they do not want to further traumatize their children who may have gone away for treatment to return to find their children are subject to an agreement.

Grandparents have asked for financial support for years and it was only recently that they started to receive financial support under extended family care agreements that was equitable to the support received by foster parents. This inequity deepened their lack of trust.

> *"Trust is a key principle that is required to build partnership", Lori Duncan, CFSA Advisory Committee Member.*

Given the lived experience of many grandparents, their fears are not surprising. The result, however, is that grandparents and the children in their care do not get the financial assistance and additional supports they need and are entitled to receive under the Act.

We heard that the use of extended family care agreements (section 14) has been welcomed by workers and families. The ability of a social worker or family support worker who is well acquainted with the families' needs to be able to offer support through these agreements is invaluable. However, we also heard that grandparents and extended family members do not understand the money they are receiving or how long they will receive it because that is not explained to them. This must change (Required Action 85).

Grandparents and extended family members must be offered the support they are entitled to receive under sections 10, 11 and 14 of the Act (Required Action 86).

Making Decisions and Obtaining Consent

We heard from family and workers that extended family care agreements (section 14) must be changed to allow family members who have care of the child to sign consents and make decisions (Required Action 87). This is especially important when the parent cannot be located.

Parents, foster parents and extended family must be specifically informed about this change, and their right to obtain legal advice about why it is important and what it means (Required Action 88).

The Right to Legal Advice

Children do not have to be taken into care for their parents to have the right to legal advice. We have heard that people do not know they are entitled to receive legal advice at their first point of contact with "the child welfare system". Many people fear the cost of obtaining advice and must therefore be offered advice immediately and free of charge whether or not they meet the Legal Aid threshold. If this Action requires an increase in Legal Aid funding, then that must also happen (see Required Action 92, p. 49, below).

It is the Government's responsibility to ensure everyone is aware of their right to receive legal advice, to provide unimpeded access to legal advice and to ensure it is provided to them. Awareness about the right to obtain legal advice free of charge will be increased through the community education campaign that must take place every year, and in each community (see Required Action 74, p. 42, above).

People have also described situations where they felt pressured to enter into a voluntary care agreement because there was a lingering threat of apprehension if they do not sign.

One problem is that parents often sign voluntary care agreements (section 37) and make their way through the system without support and without legal advice. Parents have the right to make informed decisions. Agreements entered into with parents may not be valid or durable if they are not told immediately about their right to talk to a lawyer. Aged and existing agreements need to be revisited and they need to be reviewed every 6 months in the same way as family support agreements (Required Action 89).

Section 37 says:

> "*If a director believes that a child is in need of protective intervention and requires out of home care and voluntary placement with an extended family member or other person significant to the child is not possible, the director shall, if practicable, explore with the parent the possibility of entering into a voluntary care agreement before taking action under section 38 or 39" (sections 38 and 39 refer to taking a child into care with or without a warrant).*

Parents must know they have the right to talk to a lawyer before the director explores this possibility with them (Required Action 90).

Parents must also be advised of their right to rescind a voluntary care agreement after it is signed (Required Action 91).

When parents are educated about their right to receive legal advice, legal aid will require additional funding to provide the public with access to justice on a 24/7 basis (Required Action 92).

If the parent wants to waive the right to legal advice and place their children in care, that waiver must be clearly stated in writing, signed by the parent, dated and witnessed by someone who is independent from the Yukon Government (Required Action 93).

If the parent does not agree to sign the voluntary care agreement, the director can take the most intrusive step possible under the Act, enter the parent's home and remove their child under sections 38 or 39. This can be done either with or without a warrant. The intention is to keep the child safe. However, this incredibly intrusive action can be taken without informing the parent of their right to legal advice and without ensuring there is someone present to support them if the child is removed (see Required Actions 94 & 95, this page; Required Action 74, p. 42, above).

The Right to Have a Support Person Present

The act of removing a child from their parents' home has been described to us on more than one occasion as *"brutal"* for both the parent and the child. Parents need to know that they never have to go through that experience alone. Parents must be advised that they have the right to ask for and receive support when their child is being removed (Required Action 94).

Parents also must be informed of their right to have a support person of their choosing with them when they have contact with Family and Children's Services ("the child welfare system") (Required Action 95).

Sections 38 and 39

In sections 38 and 39 there is no option for the director to place a child in the care of a relative under an extended family care agreement, or with a community member as an emergency placement when the child is taken into the director's care with or without a warrant. These sections must be changed to provide for these placements so that a child can remain within their community or with their family (Required Action 96).

Social Workers

We have heard that social workers who are new to the community or to the Yukon must be paired with a community shadow – a person in or from the community who is knowledgeable and connected. That community person can help create a network and share knowledge with the person who is just coming in. This gives the worker a huge sense of support while creating more community confidence in the worker because they are establishing relationships. This can be accomplished through partnership with the First Nation Government provided the resources, both financial and human, are available to support the community shadow (Required Action 97).

We have heard that workers in the communities can and do feel isolated and overworked and this leads to high turnover. Social workers need to be supported to prevent burnout and compassion fatigue. More workers need to be allotted to the communities. Two or more social workers in each community allows for sharing of work-load in addition to coverage and continuity when one social worker is ill or on vacation (Required Action 98).

As we travelled throughout the territory, we heard there is a need for (Required Action 99):

- adequate time for orientation and job shadowing more senior workers;
- supervisors to attend meetings with social workers when requested to do so by the social worker or by the client;
- performance evaluations (annual, semi-annual and probationary);
- clinical supervision;
- worker self-care;
- ongoing professional development and education opportunities;
- a deeper understanding of trauma and historical trauma;
- a deeper understanding of FASD;
- an understanding of Yukon First Nations that is deeper and broader than First Nations 101, although we see this program as a good start, there should also be the opportunity to attend on-the-land camps and traditional activities on the traditional land upon which they work;
- mandatory trauma informed response training that links the response many parents, youth and children who are involved with Family and Children's Service have to flight, fight or freeze when they feel challenged or unsupported and they go into protection mode;
- mandatory training in early childhood development to assist in balancing the potential harm outlined in section 34 that requires the director to balance the potential harm to the child from staying in the parent's home against the potential harm from being removed from the home; and
- Whitehorse workers need to be thoroughly educated about the unique ways that work is carried out in the communities and trust that community knowledge and the community process.

Professional Social Work Practice

Social workers are not regulated in the Yukon and we have heard from social workers and from the public that they need to be.

An Act dealing with the regulation of social workers needs to be drafted from a Yukon perspective. When regulated, social workers will have to remain current about best practices from an early childhood development, trauma informed, and trauma response lens. A Yukon perspective must be added to the regulation of social workers – without having lived the experience, it is difficult to truly appreciate the historical context of Yukon First Nation people. Respect, knowledge and genuine humility toward cultural awareness without judgment can lead to improved relationships (Required Action 100).

The Duty to Report

We heard that consistent interpretation, direction and education must be provided about the duty to report (section 22(2), (3); section 156) (Required Action 101).

> *22(1) A person who has reason to believe that a child is in need of protective intervention shall immediately report the information on which they base their belief to a director or peace officer.*

The public must also be educated about the fact that it is an offence to knowingly make a false report and is punishable by a fine of up to $10,000 or a term of imprisonment of up to a year (see section 156 of the Act).

> *22(3) No person shall knowingly report to a director or peace officer false information that a child is in need of protective intervention.*

We recognize that the duty to report is there to protect the child. In some instances, reporting creates a barrier for the protective parent (the parent who is a victim of family violence to access services and supports; accessing the support may lead to a report being made and the child being taken into care.

It is important to note that in section 22(1) "a director" means a director of Family and Children's Services and also a First Nation director who has been appointed to act under section 168 (see the section on "Meaningful Partnership for Change" found on pp. 11 - 27, above). First Nation partners must be included in the duty to report.

There is conflicting direction about the duty to report in instances of same age sexual violence. Teenagers seek support and information after they have been sexually assaulted by a peer and they are less likely to seek support if they know the incident will be reported. Front line workers must be included in determining best practices around this issue instead of direction being given from the top down (Required Action 102).

Family Support Planning

People need to be educated about what supports they are entitled to receive through family support planning. Each family who accesses support needs a mandatory, individualized case and cultural plan that is geared to the individual family and their specific needs and circumstances (Required Action 103).

The family support plan must be consistently monitored and adapted to meet the changing needs of the family. Family support plans, like case plans must be reviewed every month (See Required Action 58, p. 35, above). The family and the child must be part of the plan and part of the ongoing evaluation of the plan because they are the ones who are directly affected by it.

Under section 10 and 11 of the Act, all families (whether their kids are in care or not) can access a support service agreement. Families need to know that these supports are available (see Required Actions 75 & 77, p. 43, above). The family support plan that establishes a circle of support for the family needs to be created immediately in partnership with all partners sitting at the table (including multiple First Nations when the family is part of multiple First Nations).

Consensual Resolution

The alternate dispute resolution section of the Act is rarely used. Children, youth and families need to know they can go to mediation or use another form of resolution when they disagree with a decision that has been made (Required Action 104).

Section 8 of the Act says:

> *If a director and a person are unable to resolve an issue relating to a child in respect of a process or service under the Act, they may agree to mediation or to another alternative dispute resolution mechanism as a means of resolving the issue.*

In sections 8, 9 and 178(2)(f) of the Act, "alternate dispute resolution" must be changed to "consensual resolution". This change emphasizes that consensual resolution is the default, not the alternative. (Required Action 105).

Consensual Resolution is based in collaborative process and must be defined in section 1 to include mediation, collaboration, and culturally recognized consensual resolution processes such as circles, clan meetings, family meetings and peacemaking circles that are facilitated by someone who is neutral and independent (Required Action 106).

Section 8 must be changed to read:

> "*If a director and a person are unable to resolve an issue relating to a child, they must first attend consensual resolution with a neutral facilitator to resolve the issue before*

taking any other action, including making an application for a hearing" (Required Action 107).

The neutral facilitator must be paid so that everyone who needs this service has access to it (Required Action 108).

Section 8 must also be enhanced to provide for a mandatory judicial settlement conference when the court is involved and when there will be a protective intervention hearing under section 53. The mandatory judicial settlement conference date must be set in advance of the date set for the court hearing (Required Action 109).

At a mandatory settlement conference, the parents and family will be provided with one judge's honest opinion about the case. This venue also allows the family and the child to have a voice in a less adversarial setting. The feedback we received is that when these conferences are used, they lead to resolution.

LEGISLATIVE AND POLICY CHANGES

We were given a strong message that a new partnership cannot be built upon past mistakes. The process for drafting changes must be overhauled in the spirit of collaboration (see Required Action 1, p. 5, above).

The legislative, policy and regulation changes outlined in this Report must be drafted in partnership with individual First Nation Governments. This is a total shift from the current process where legislation, policy and regulation are drafted in isolation and sent out for review and comment. As we have stated repeatedly throughout this Report, true partnership means collaboration from beginning to end.

The partnership must continue if the First Nation Governments decide to draw down their authority, allowing the two Governments to continue talking to one another (Required Action 110).

Policy and Regulation

A policy manual was written to assist social workers with the implementation of the Act and to outline the social programming, financial assistance and services that are available to families. Many of the policies reflect the guiding principles in the Act. The "Strengths-Based Practice" and "Social Worker Attitude" policies (appended to our report at Appendix A) are examples.

"Family Conferencing" (Appendix B) focuses on one collaborative planning option. However, the Act says: "a family conference or other co-operative planning process" shall be offered (see section 44(1)). The policy manual refers to other collaborative processes, however, we have heard that family conferencing is the primary (and perhaps the only) collaborative process that is offered. Even though it is sometimes offered, family conferencing is not offered consistently.

We have repeatedly heard that the guiding principles often do not make it into front-line practice. When they have, the application is person-dependent and when the person leaves, their good practices leave with them. The implementation of policy requires interpretation by the individual who is following the policy. The interpretation of policy can also be affected by common practice and continuing to do something "the way it has always been done". This is why policy is not sufficient to result in the type of change that is required. The Required Actions must be enshrined in the Act and in regulation to facilitate a larger paradigm shift (Required Action 111).

We have heard that although the manual was drafted to assist with the implementation of the Act, it is difficult to use because it is more than 1300 pages long. The Act is only 120 pages, making the explanation more than 10 times larger than the Act itself. Most of the policies and some of our Required Actions can and must be put into regulation. Putting the policies into regulation will:

- strengthen and reinforce the guiding principles;
- reduce the size of the policy manual so that it is more user-friendly and accessible;
- eliminate the person-dependency in implementation and operations;
- take good practices from policy and put them into; and
- provide clarity and direction.

Although we heard that Family and Children's Services is working on a revision of the policy manual, the new manual must be created in partnership and shared with individual First Nation partners and community liaison workers to create trust through transparency. This must be done after the Act has been revised and the regulations have been drafted and the new policy must be available on-line (Required Action 112).

When new policy and regulations are drafted, they must reflect the Required Actions that are set out in this Report, be trauma-informed and be consistent with trauma-response and lived experience.

The Name of the Act

The name of the Act "The Child and Family Services Act" and the name of the department "Family and Children's Services"— are not currently aligned and must be for consistency. The difference causes unnecessary confusion (Required Action 113).

Additions to the Definitions Section

The following definitions must be added to or changed in Section 1 of the Act:
"Partnership" (see Required Action 7, p. 11, above).
"Alternate or Differential Response" (see Required Action 114, p. 56, below).
"Collaborative Planning" to replace "Co-operative Planning" (see Required Action 26, p. 19, above).
"Special Needs" (see Required Action 115, p. 56, below)

"Alternate or Differential Response"

There needs to be a definition added to section 1 that allows the director to provide support and services as an alternate or differential response (under sections 11 – 17) when the director determines that a child is in need of protective intervention (section 21) and decides not to conduct an investigation under section 23(2). An alternate or differential response allows the child to remain protected and the family to stay together with the least intrusive involvement.

Alternate or Differential Response is not currently provided for in the Act, it appears in the Family and Children's Services policy manual (Required Action 114).

Preventive Intervention

Preventive intervention must have prominence and be defined in the Act and added to the resulting policies and regulations. "Preventive Intervention" is a new concept. The paradigm shift from "protective intervention" to "preventive intervention" must be led through partnership by Yukon Government, individual First Nation Governments and communities (see Required Action 44, p. 28, above; see also Required Action 1, p. 5, above).

Section 7(1)

The foster parents of the child must be specifically included as participants in the development of the child's mandatory case and cultural plans (see Required Action 19, p. 17, above).

The Advocate or the children's lawyer must be added as one of the participants during the collaborative case planning process as the child's representative if the child or another participant requests it, and funding must be provided for the child's representative to sit at the table (Required Action 20, p. 17, above).

Section 12(1)

Many children have special needs that result from physical and psychological harm or addictions. "Special Needs" must be broadly defined in section 1 to include physical and psychological support, access to treatment facilities, and support to family members where there has been trauma including historical trauma (Required Action 115).

Section 21(h) and 107(1)

The Act says that a child is in need of protective intervention when the child has been "abandoned". "Abandonment" is difficult to prove and is rarely used as a reason to take a child into care. "Abandonment" should either be defined or taken out of the Act entirely (Required Action 116).

Sections 21(c), 21(f) and 21(3)

"Emotional harm" is subjective and allows assumptions to be made and action to be taken based on the lens of the person who is calling something "emotionally harmful". "Emotional harm" can be used as a broad, sweeping power that allows the director to take protective intervention. "Emotional harm" needs to be re-defined or taken out of the Act (Required Action 117).

Sections 27 – 28(1) Reporting Back

These sections state that the director shall report back to the parent and the child's First Nation Government(s) when an investigation has been started. The director does not have to contact the parents and First Nation Government(s) when an alternate or differential response is

provided instead of an investigation and this requirement must be added to these sections (Required Action 118).

Section 29 How Children are Protected

Provision of Services

Support services agreements are available to all children. A child does not have to be in need of protective intervention to be entitled to receive services under section 10, however, that is not the way section 29 is written:

> *29 If a director believes a child is in need of protective intervention, the director may offer to enter an agreement under section 11 to provide support services to the family or refer the family to other community services if such services would help keep the child safe in the family home.*

We heard many examples where the child needs preventive intervention, not protective intervention. Preventive intervention is one of the least intrusive, most effective ways to ensure children continue to be safe and protected.

"If a director believes a child is in need of protective intervention" must be deleted from section 29 to make it broad enough to allow for support service agreements to be made when there is no need for protective intervention. Section 29 must refer to section 10 (the services and programs that are available) in addition to sections 11 - 17 (the types of support services agreements that are available) (Required Action 119).

Section 35

We envision a shift from punitive language and action, to providing support and preventive intervention as the first response. In section 35, the term "supervision order" should therefore be changed to a "support services order" so that the emphasis is on the support that is provided to the family as a preventative intervention to keep the child at home (Required Action 120).

Sections 38 and 39

As stated already in this report, there is no option in sections 38 and 39 for the director to place a child in the care of a relative under an extended family care agreement, or with a community member as an emergency placement when the child is taken into the director's care with or without warrant. These sections must be changed to provide for these placements so that a child can remain within their community with their families (see Required Action 96, p. 49, above).

Calculating the Total Cumulative Period in Care

Section 61 does not provide the starting point for calculating a child's age. The Act is not clear whether the total time is calculated from when the child is taken into care, when an application

is made, or when there is a court order. This section has been problematic for lawyers and Judges. Section 61 of the Act states:

> *61(1) A judge shall not make an order for temporary custody of a child that results in the total cumulative period during which the child is in temporary custody exceed*
>
> *(a) 12 months, if the child is under five years of age;*
> *(b) 18 months, if the child is five years of age or over but under 12 years of age; or*
> *(c) 24 months, if the child is 12 years of age or over.*

Other jurisdictions make the starting point clear (see Manitoba, British Columbia and Nova Scotia examples). The starting point for calculating a child's agre must be made clear in the Act (Required Action 121).

Section 61 must also provide flexibility to extend the timelines on a case by case basis that meets the needs of the particular child and his or her family. The judge currently has no ability to extend these timelines and they are often too tight to allow the family sufficient time to heal and reunify (Required Action 122).

If every child's case plan is reviewed monthly, as suggested (see Required Action 58, p. 35, above), that will provide everyone, including the court, the information needed to make further decisions for the child so decisions are based in fact, instead of according to the timeline.

Section 162

Section 162 of the Act ensures that hearings and proceedings involving children and their parents remain private by banning the publication of the parents' and children's names:

> 162*(1) Subject to section 118, a hearing or proceeding under this Act shall take place in private unless otherwise ordered by the court or judge.*
>
> *162(2) No report of a proceeding under this Act in which the name of the child or child's parents or in which the identity of the child is otherwise indicated shall be published, broadcast or in any other way made public by any person without the leave of the court or judge.*

To respect the privacy of all children, this publication ban must also apply to voluntary care and extended family care agreements. There must also be some ability to exchange information to allow social workers, front-line workers, First Nation Governments and non-government organizations to provide assistance to individual children and families which means that their information must be shared, with consent (Required Action 123).

Section 177

The director has limited ability to obtain information from the RCMP unless the RCMP has received a report under the duty to report (section 22) or the RCMP has taken a child into care, resulting in a joint investigation by the RCMP and the director.

The director cannot ask the RCMP for information under section 177 because the RCMP does not fall within the definition of a public body under the Access to Information and Privacy Protection Act ("ATIPP"). In other jurisdictions the director's ability to obtain information from the RCMP to assist with an investigation or perform the director's duties under the Act are legislated, or they are part of the RCMP/Family and Children's Services Protocol.

This change must also apply to provision of information to the director's First Nation Government counterpart if sections 168 and 173 are implemented the way we have outlined earlier in this report under the "Partnership" Section starting at p. 5, above (Required Action 124).

Section 180

This section states that the disclosure provisions for the director under sections 177-179 overrides ATIPP and gives the director the ability to disclose and obtain information. Section 180 is silent about the Health Information and Privacy Management Act ("HIPMA") and the director's ability to disclose and obtain information should be paramount over HIPMA as well. HIPMA came into force 6 years after the Act. The effect of HIPMA on the Act generally on sections like 118(4) and 180, specifically, must be considered (Required Action 125).

Section 183

The operation of the Act is to be reviewed every 5 years by an Advisory Committee of up to 6 people who are chosen by the Minister. The following changes need to be made to section 183:

- The Advisory Committee must be at arms-length and independent from the Yukon Government. This is a recommendation that goes back to 2008 prior to this Act coming into force.

  It should be noted that the Minister mandated this Committee to be independent and at arms-length. The Committee's independence from the Yukon Government was well received by Yukoners. The requirement that the Committee must be independent and at arms-length from Government is not a legislated, and it must be (Required Action 126).

- Yukoners also mentioned and appreciated the nomination process that was used by the Minister to appoint the Advisory Committee. The request for nominations was broad. It was sent to individual First Nation Governments, Government and non-government

organizations and resulted in a Committee that is varied, experienced in the field, and representative of the population of people who access the service. This broad, independent nomination process should be required and set out in regulation (Required Action 127).

- To maintain independence, section 183(5) must be changed so that the Chair of the Advisory Committee is chosen by the Advisory Committee and not appointed by the Minister (Required Action 128).

- People wanted to know that we heard them; they were disillusioned by past experience where they provided input and there was no follow up. The Advisory Committee's report must be broadly circulated to Yukoners who provided information about the implementation and operation of the Act (Required Action 129).

- The Advisory Committee came up with a list of recommendations to the future Advisory Committee. A list of recommendations should be compiled by each subsequent Advisory Committee and provided to the next one (Required Action 130).

Section 187

Under section 187, the annual report must be authored by the director and the director of each individual First Nation Government (if sections 168 and 173 are implemented as we have outlined under the "Partnership" Section of this report, see Required Action 1, p. 5, above) and submitted to the Minister (Required Action 131).

In addition, an annual report that covers the whole territory must be prepared by the director and submitted to the Minister and the individual First Nation Governments (Required Action 132).

"A Parent Apparently Entitled to Custody"

A child can be returned to "a parent apparently entitled to custody" when:

- the director discontinues an application (sections 43 and 56);

- a judge decides the child is not in need of protective intervention (sections 52(1), 57(2) and 79(3)); or

- a parent applies to court and successfully terminates a Temporary or Continuing Care Order (section 69).

The words "a parent apparently entitled to custody" in sections 43, 56, 52, 57 and 79 are confusing and they narrow the definition of "parent" in section 1 of the Act. For consistency

and clarity, “apparently entitled to custody” must be removed. This provides the director and the Judge with more placement options (Required Action 133).

Access Between the Child and Family

A child’s access to parents and extended family members is the child’s right and should not be limited unless there are relevant and compelling reasons. The child’s right to access must be prominently set out under the best interests section of the Act (see section 4 of the Act) and included in every child’s mandatory case and cultural plans (see section 45 of the Act) (Required Action 134).

The child’s right to access with parents and extended family members must be specifically set out in temporary and continuing care orders, voluntary care agreements and adoption orders. Dates and times must be included so everyone knows when access will happen (Required Action 135).

Access is important to maintain connection to family, culture and community. The right to access must include supervised and unsupervised in person contact, electronic and telephone contact, and access to information and photographs (Required Action 136).

Children have the right to spend time with their parents more frequently even when their parents have challenges or limitations. That right includes extended visits and overnights in a homelike setting that is safe and supported. It will also reduce the trauma associated with only seeing parents in an institutionalized and cold environment. This will allow children to spend meaningful time doing regular activities with parents, siblings and extended family members (Required Action 137).

When access is frustrated (by creating barriers) or denied, a parent, extended family member or child must be able to attend consensual resolution, file a complaint with the Independent Community Review Panel or make a quick and easy court application to address the issue (Required Action 138). We also note that when the other actions we have outlined are implemented in the delivery of supports and services to children and families, access will be enhanced.

When an order is made it must include a review clause so the order can be reviewed through collaborative process, consensual resolution or by a Judge when requested by a party (Required Action 139).

Collaborative Planning - Sections 1, 6, 18(2) and 44

As already outlined, “Co-operative Planning” should be renamed “Collaborative Planning” (see Required Action 26, p. 19, above).

The Collaborative Planning Process must be facilitated by a neutral person who is at arms-length from Government who is responsible for initiating the process, taking notes, circulating the notes, and creating a "to do" list for follow up (see Required Action 27, p. 19, above).

Anyone who would be invited to attend collaborative planning as a participant (see section 7(1) of the Act) has the right to start the Collaborative Planning Process in accordance with the framework that we have outlined (see Required Action 28, p. 20, above).

Sections 6(2)(a) says the director shall offer co-operative planning (which we have renamed "collaborative planning") "as set out in section 44(1)" when the director believes there a need for protective intervention.

However, Section 44 adds an additional requirement that must be removed. Section 44 says that the director shall offer co-operative planning when there is a need for protective intervention ***and*** *the director has commenced or intends to commence an application to a Judge or is considering entering into a voluntary care agreement.* To be consistent with section 6(2)(a), the underlined words of section 44 must be removed (Required Action 140).

Section 60

At the conclusion of a presentation hearing, the Judge must set a protective intervention hearing date within 45 or 90 days unless the Judge dismisses the application after the presentation hearing. This is to ensure the child does not remain in care indefinitely without an order.

However, if an order for supervision, temporary or continuing care is made, and the director applies for a subsequent order or a continuation of the original order, there is no requirement that the hearing take place within a set amount of time (like 45 or 90 days). This means that the application can be made by the director before the expiry of the original order, and the application can be continually adjourned instead of being brought back to court for a hearing. Hearing timelines must apply to subsequent orders the same way they do to original orders, however, there must be flexibility to allow the parties to agree to change the timeline, or the court to order that change (Required Action 141).

Section 61

When counting a child's time in the director's temporary custody under section 61, an interim care order (made before the protective intervention hearing occurs) does not count as custody and must be added to section 61 and included in the calculation of the cumulative amount of time the child can be in the director's care (Required Action 142). That being said, if the partners have determined through the collaborative planning process that the child should remain in temporary care (and not be placed in continuing care or placed for adoption, for example), there must be enough flexibility in the Act to allow this to happen.

The Calculation of Time to Hold a Protective Intervention Hearing

Section 52

After a presentation hearing has been held and an interim care order is made under section 52, a protective intervention hearing must be held within 45 or 90 days.

Section 79

When a hearing or application has been scheduled (the "Hearing"), and one of the parties requests an adjournment, the Judge will make an interim care order. Care of the child may be placed with the parents or with the director until the Hearing date.

However, once the Judge grants the adjournment, there is no requirement to hold the Hearing within a certain number of days. This oversight allows a party to obtain an adjournment and keep adjourning the Hearing. A child whose Hearing is repeatedly adjourned may be subject to an interim order until he or she turns 19. Under these circumstances, the court does not hear the facts of the case and does not make a decision about whether the child should be in care or be subject to an interim order, and the child remains in limbo. This section must specify a timeline for the hearing to occur unless the parties agree otherwise (Required Action 143).

Section 61

A child can only be subject to a temporary care order for 12, 18 or 24 months, depending on the child's age. When calculating the child's time in the temporary care of the director, the number of days a child spends in care under an interim order does not count. This inconsistency must be corrected so that interim care orders count toward the child's time in temporary care (Required Action 144).

While timelines are important and they need to be consistent, we have also heard that the timelines sometimes need to be more flexible. Some children and families require a more patient approach that will take more time than the strict timelines in the Act allow. Flexibility must be built into the Act to provide the court with discretion to extend the timelines and allow for a temporary care order to continue, where appropriate (Required Action 145).

New Section – Critical Incidents and Death of Children

In other jurisdictions the Child and Youth Advocate investigates critical incidents, injuries and deaths of children. The Yukon Advocate should have the authority to review the investigation if the circumstances of a child's death are considered "questionable" by the Coroner's Office following the Coroner's investigation.

Changes to the Act must be made to allow for a review of the investigation by the Advocate, and those changes must be made in partnership between the Yukon Government, the Advocate, individual First Nation Governments and the Coroner's Office (Required Action 146).

Bill C-92

When comparing the Act to Bill C-92, the following sections of the Bill are not mentioned in the Act and must be added, for consistency (Required Action 147):

- **Section 9(2)(d) of Bill C-92:**
  Principle - cultural continuity
  (2) This Act is to be interpreted and administered in accordance with the principle of cultural continuity as reflected in the following concepts:

  (d) child and family services provided in relation to an Indigenous child are to be provided in a manner that does not contribute to the assimilation of the Indigenous group, community or people to which the child belongs or to the destruction of the culture of that Indigenous group, community or people

- **Section 9(3)(a) of Bill C-92:**
  Principle - substantive equality
  (3) This Act is to be interpreted and administered in accordance with the principle of substantive equality as reflected in the following concepts:

  (a) the rights and distinct needs of a child with a disability are to be considered in order to promote the child's participation, to the same extent as other children, in the activities of his or her family or the Indigenous group, community or people to which he or she belongs;

- **Section 9(3)(e) of Bill C-92: Jordan's Principle**
  Principle — substantive equality
  (3) This Act is to be interpreted and administered in accordance with the principle of substantive equality as reflected in the following concepts:

  (e) in order to promote substantive equality between Indigenous children and other children, a jurisdictional dispute must not result in a gap in the child and family services that are provided in relation to Indigenous children.

- **Section 10(3)(h) of Bill C-92: best interests of an indigenous child**
  Factors to be considered
  (3) To determine the best interests of an Indigenous child, all factors related to the circumstances of the child must be considered, including

  (h) any civil or criminal proceeding, order, condition, or measure that is relevant to the safety, security and well-being of the child.

- **Section 11(d) of Bill C-92: provision of services**
  Effect of services
  11 Child and family services provided in relation to an Indigenous child are to be provided in a manner that

  (d) promotes substantive equality between the child and other children.

- **Section 14(2) of Bill C-92: preventive intervention at birth**
  Prenatal care
  14 (2) To the extent that providing a prenatal service that promotes preventive care is consistent with what will likely be in the best interests of an Indigenous child after he or she is born, the provision of that service is to be given priority over other services in order to prevent the apprehension of the child at the time of the child's birth.

IMPLEMENTATION

"If we do the same things we've always done, we're going to get the same result…."

We believe the changes outlined in this Report require a shift that is more fundamental than making changes to the words of the Act. Words are only words. It is the action and attitude behind the implementation of the words that will breathe life into them. This is what makes the Act "a living, breathing document".

The most significant "Required Action" is the need for a massive shift in the way we see and work with one another.

It is encouraging to hear that people want to see the shift happen; they see the benefit in replacing:

- decision-making in isolation with collaborative planning through partnership;
- protective intervention with preventive intervention and support; and
- division and distrust with transparency and partnership.

In the spirit of true collaboration, the changes outlined in this Report must be led by an implementation team struck in partnership between the Yukon Government, community and individual First Nation Governments (Required Action 148).

Partnership at the leadership level requires collaboration and decision-making between each Chief and Council and the Yukon Government on a Government to Government basis.

To implement the changes Yukoners want to see, the implementation team must focus on building capacity, housing, infrastructure and the necessary supports within each of our Yukon communities (Required Action 149).

ACKNOWLEDGMENTS

The Child and Family Services Act Advisory Committee would like to acknowledge and thank:

- the children, youth and families who spoke to us;
- Yukon citizens who wrote to us about their lived experience;
- the children who reminded us what it means to be a child who has connection – we saw you at our meetings and we heard you even when you didn't say a word;
- the people whose quotes we used throughout our Report and whose words inspired us as we were writing;
- the individuals and organizations who took the time to provide us with their thoughtful written[5] and verbal submissions;
- each Chief and Council in each Yukon community;
- the Minister for having the courage to appoint an independent committee that is at arms-length from the government;
- our families and work places who were generous in allowing us to be gone for a good part of the last year while we travelled around the Yukon gathering information;
- to the amazing staff where we held our public and private meetings and where we met to write this Report;
- to the staff who assisted us with administrative support;
- to the Creator, Spirit and our Ancestors who we believe supported us in doing this work and allowed us to hear people's stories with open hearts and minds; and
- to anyone we have missed in this Acknowledgment – we thank you and ask for your understanding and forgiveness.

To every person in the Yukon who had the courage and bravery to sit with us and tell us your stories – we hope you will find your wisdom and your words echoed in this Report.

[5] Due to our promise of confidentiality, we have not specifically named or thanked the persons or organizations who provided us with written submissions.

MATERIALS CONSIDERED

1. Aboriginal Children in Care Working Group (2015): *Aboriginal Children in Care – Report to Canada's Premiers*
2. Auditor General of Canada (2014): *Report of the Auditor General of Canada to the Yukon Legislative Assembly – 2014: Yukon Family and Children's Services – Department of Health and Social Services*
3. Bill C-92 (2019): *An Act Respecting First Nations, Inuit, and Metis Children, Youth and Families*
4. Blackstock, C, (2010): *NWT Standing Committee on Social Programs – I Want to Grow Up in My Community: A Review of the Child and Family Services Act*
5. Blackstock, C., Cross, T., Brown, I., George, J., & Formsma, J. (2006): *Reconciliation in Child Welfare: Touchstones of Hope* for Indigenous Children, Youth and Families. Ottawa: First Nation Caring Society of Canada.
6. Blackstock, C., Brown, I., Bennett, M. (2007): Reconciliation: rebuilding the Canadian Child Welfare System to Better Serve Aboriginal Children and Youth. In I. Brown, F. Chaze, D. Fuchs. J. Lafrance, S. McKay. And S. Thomas Prokop (Eds.), *Putting a human face on child welfare: Voices from the Prairies* (pp. 59-87). Prairie Child Welfare Consortium www.uregina.ca/spr/prairiechild/index.html/Centre of Excellence for Child Welfare - www.cecw-cepb.ca
7. Canadian Association of Social Workers (CASW) (2018): *Understanding Social Work and Child Welfare: Canadian Survey and Interviews with Child Welfare Experts*
8. Canadian Council of Child and Youth Advocates (2015): *Declaration of Reconciliation*
9. *Child and Youth Advocate Act* Yukon (2009)
10. *Child and Family Services Act* Yukon (2008)
11. di Tomasso, L. and de Finney, S. (2015): *A Discussion Paper on Indigenous Custom Adoption - Part2: Honouring Our Caretaking Traditions* - First Peoples Child and Family Review - An Interdisciplinary Journal
12. Final Report of Special Advisor Grand Chief Ed John (2016): *Indigenous Resilience, Connectedness and Reunification – from Root Causes to Root Solutions: A Report on Indigenous Child Welfare in British Columbia*
13. First Nation Caring Society of Canada (2018): *First Nations Child Welfare: Summary of Findings from the Canadian Human Rights Tribunal*
14. *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada), 2016 CHRT 2 (Can LII)*

15. Government of Canada – Minister of indigenous Services (2019): *Bill C-92: An Act Respecting First Nations Inuit and Metis children, youth and families*

16. Government of Manitoba Report of the Legislative Review Committee (2018): *Transforming Child Welfare Legislation in Manitoba – Opportunities to Improve Outcomes for Children and Youth*

17. Government of Northwest Territories (2016): *Building a Culturally Respectful Health and Social Services System*

18. Government of Yukon (2019): *Honouring Connections: A Collaborative Process; Overview and Guiding Principles*

19. Government of Western Australia Department for Protection (2011): *The Signs of Safety Child Protection Practice Framework*

20. Health Canada (2011): *Honouring our Strengths, A Renewed Framework to Address Substance Use Issues Among First Nations People in Canada*

21. *Jordan's Principle*

22. Kwanlin Dun First Nation and Champagne and Aishihik First Nations (2017): *First Nations Child and Family Services Engagement Final Report*

23. Letters Tabled in the Yukon Legislative Assembly (2008):
    a. Chief Darren Taylor, Tr'ondëk Hwëch'in Government
    b. Carcross/Tagish First Nation, Kluane First Nation, Kwanlin Dun First Nation, Ta'an Kwäch'än Council and Tr'ondëk Hwëch'in
    c. Grand Chief Andy Carvill, Council of Yukon First Nations
    d. Tracy-Anne McPhee, Yukon Ombudsman

24. McDermott Consulting (2016): *Report of Compliance to Core Child Welfare Standards 2015/2016*

25. McDermott, J. n(2010): *A Framework for Quality Assurance in Child Welfare*

26. McLeod-McKay, Diane, Public Interest Disclosure Commissioner (2019): *Allegations of Wrongdoing in the Delivery of Group Home Care – Final Special Investigation Report under the Public Interest and Wrongdoing Act*

27. *Missing and Murdered Indigenous Women and Girls Report* (MMIWG)

28. National Housing Strategy Act (2019)

29. Office of the Child and Youth Advocate Alberta (2016): *Voices for Change: Aboriginal Child Welfare in Alberta, A Special Report*

30. Ontario - The Report of the Expert Panel on the Deaths of Children and Youth in Residential Placements (2018): *Safe with Intervention*

31. Prince Edward Island Family and Human Services (2016): *Child Protection Act Review, Advisory Committee Report*

32. Saskatchewan Child Welfare Review Panel Report (2010): *For the Good of Our Children and Youth: A New Vision A - New Direction*

33. Truth and Reconciliation Commission of Canada (2012): *Truth and Reconciliation Commission of Canada: Calls to Action*

34. UNICEF - Fact Sheet: *A Summary of the rights under the Convention on the Rights of the Child*

35. UNDRIP *United Nations Declaration of Rights of Indigenous People*

36. Yukon Family and Children Services Policy Manual

37. Yukon Child and Youth Advocate Office (2019): *Empty Spaces Caring Connections: The Experiences of Children and Youth in Yukon Group Care*

38. Yukon Health and Social Services (2013): *Parent and Family Handbook - Information About the Child and Family Service Act*

39. Yukon Indian People (1973): *Together Today for our Children Tomorrow*

40. Yukon Public Interest Disclosure Commissioner (2019): *Allegations of Wrongdoing in the Delivery of Group Home Care*

REQUIRED ACTIONS

1. Yukon Government must work in partnership with Yukoners and individual First Nation Governments when drafting and implementing necessary changes to the Act, and its policy and regulations (Required Action 1).

2. Yukon Government, communities and individual First Nation Governments must support children to remain in their homes, with their extended families or in their community in a safe, supported and loving way instead of forcing them to repair *a broken connection they didn't create*, when they eventually find their way home (Required Action 2).

3. Individual First Nation Governments and First Nation citizens must be educated about their options to retain or delegate their authority to contract with the Yukon Government directly to build capacity in their community (Required Action 3).

4. Capacity must be built within each individual First Nation Government and community. Individual First Nation Governments must be provided support, financially and otherwise by the Yukon Government to build capacity (Required Action 4).

5. Some action has been taken and some changes have been made within Family and Children's Services both prior to and during our review. However, Yukon people are fed up with piece-meal answers and band-aid solutions. Changes must be made in partnership with individual First Nation Governments and communities and those changes must be monitored and evaluated regularly by workers and those who use the service (Required Action 5).

6. People want to know the facts because facts affect funding. Although there are fewer court applications and fewer children in foster home placements under the new Act, a similar number of children are in care under extended family care agreements. As a result, there needs to be a redirection and increase in resources and supports to families (Required Action 6).

7. "Partnership" means the relationship between individual First Nations Governments, communities, Yukoners and Yukon Government. Partnership must be built upon mutual respect, trust and understanding by participants who each have the capacity to sit at the table and collaborate to achieve a consensus about the best course of action. "Partnership" begins and ends with collaboration and must be clearly defined in the Act (Required Action 7).

8. The intent of the guiding principles (set out in section 2 of the Act) must be honoured in spirit and in practice. When the child is indigenous, the guiding principles direct that the child's First Nation(s) be involved as early as practicable to ensure that a First Nation

lens is applied. Immediate involvement by the child's First Nation Government(s) and the application of a First Nation lens must happen in every case involving an indigenous child (Required Action 8).

9. We have heard that more than ¾ of the children in care are indigenous. Individual First Nation Governments must be provided with the capacity to be meaningful partners who help care for and support indigenous children and their families. Individual First Nation Governments and communities must be provided with the funding necessary to build their capacity (Required Action 9).

10. In section 2 of the guiding principles, section 2(j) needs to be moved up to 2(a) to establish this partnership as a priority and "should be" must be changed to "must be" (Required Action 10).

11. In section 3 of the service delivery principles, section 3(e) needs to be moved up to 3(a) to establish this partnership as a priority and "should be" must be changed to "must be" (Required Action 11).

12. If a caregiver knows about and feels comfortable accessing support and financial assistance through their First Nation or another organization capable of responding to their need immediately, they must be able to take that route. To eliminate a barrier that many people feel because they are reluctant to ask the Yukon Government for help, the First Nation or organization must be able to bill-back the Yukon Government for the support provided (Required Action 12).

13. If a First Nation Government develops a MOA with the Yukon Government and the First Nation Government wants to incorporate the MOA into the Act to make it legally binding, and to guarantee adherence, there must be an option to make the MOA a regulation (Required Action 13).

14. When financial arrangements are made for service delivery, they must be clearly outlined in regulation to ensure the responsibility for funding does not fall upon the individual First Nation Government. The money must flow to the community where it will have the greatest impact (Required Action 14).

15. If the individual First Nation Government wants to designate a legal entity to negotiate on its behalf under section 168 and be appointed as a director under section 173, that can happen. However, that choice must be revisited with the individual First Nation Government annually to ensure the First Nation still wants a legal entity to be its representative since the choice may change over time (Required Action 15).

16. Local administration of services at the community level will cultivate autonomy and self-determination. Programs and services must be offered and administered locally and be

community-specific to directly benefit the communities' children, youth and families (Required Action 16).

17. To achieve a true partnership with First Nation Governments, "should be" in 2(d) must be changed to "must be" (Required Action 17).

18. The Act must explicitly state that a mandatory cultural plan is a necessary and essential component that is a stand-alone document, developed in partnership with the child's First Nation Government(s) (Required Action 18).

19. In section 7(1)(f), the foster parents of the child must be specifically included as participants in the development of the child's mandatory case and cultural plans (Required Action 19).

20. Equitable funding must be provided to ensure the participants in the collaborative planning process (outlined in section 7(1)) have the financial and human resources needed to fully participate when developing a mandatory case and cultural plans (Required Action 20).

21. The child's cultural plan must be added to section 45(1) and be developed in partnership with the child's First Nation Government(s) (Required Action 21).

22. Section 7 must be amended to allow the Yukon Child and Youth Advocate, or the Children's Lawyer to be one of the participants in the collaborative case planning process as the child's representative if the child or another participant requests it (Required Action 22).

23. When a First Nation director has been appointed under section 173, the First Nation director must also consent to the mandatory case and cultural plans and the consent of the First Nation director will need to be added to section 45(2) (Required Action 23).

24. Either a child lawyer or the Advocate must be appointed to represent the child through the collaborative planning process. The child's representative must be appropriately funded to sit at the table when representing the voice of the child (Required Action 24).

25. When parents do not want their First Nation Government(s) to be involved, there needs to be a respectful way to support the child while following the Act and this option must be clearly outlined and made available to parents (Required Action 25).

26. "Co-operative Planning" must be renamed "Collaborative Planning" and the process must reflect true collaboration that will benefit the child and the family (Required Action 26).

27. The Collaborative Planning Process must be organized and facilitated by a neutral person who is not a part of and is at arms-length from the Yukon Government. The details are found at pp. 19 – 20 of our Report (Required Action 27).

28. Section 6 of the Act says that the director *"shall offer"* co-operative planning. This must be changed in 6(1), (2) and (3) to allow anyone who would be invited to attend collaborative planning under section 7(1) to initiate the Collaborative Planning Process and (Required Action 28).

29. When an indigenous child is involved, First Nation Governments must always be involved right from the beginning (Required Action 29).

30. When Yukon Government and First Nation Governments are working in partnership consistently, they will collaborate in hiring independent facilitators, mediators and psychologists; social workers and people who are in senior positions in Family and Children's Services. This is important to ensure the people who are hired are knowledgeable about Yukon First Nation history and culture, have training in trauma response and are the right fit (Required Action 30).

31. The least intrusive and most effective form of support must be provided to families (Required Action 31).

32. When both parents have capacity to have input into the out-of-home placement of their children through the development of the case plan, they must be involved. When parents are not available or in a frame of mind where they can provide this input, the family must be involved (Required Action 32).

33. The community and the individual First Nation Government have the knowledge to identify out-of-home placements and emergency care homes in the child's community. They must be consulted by Yukon Government as partners when determining appropriate community placements (Required Action 33).

34. Although it is not common knowledge, we heard there are a few emergency child placements that are paid daily (currently $30/day) to provide 24/7 availability. With adequate funding and awareness of this option, each community will be able to provide emergency on-call placements for children. When the community and the Yukon Government work in partnership, these support networks can be built and maintained through core funding (Required Action 34).

35. In partnership with individual First Nation Governments and community, a foster care application that is short, specific and relevant to the Yukon must be developed (Required Action 35).

36. Foster parents have also asked to be provided with information from the child's individual First Nation(s), so they have an accurate and informed understanding of traditions, feasts, gatherings, activities and ceremonies (Required Action 36).

37. Foster parents said they need a place to share this information, and to be connected with other foster parents. One way this can be achieved is to have an interactive website that provides foster parents with a list of funding opportunities and supports, and a place where questions can be asked and answered, and information can be exchanged (Required Action 37).

38. Children in out-of-home placements may experience greater normalcy if there are options for the grandparent or foster parent to go to the First Nation office or to someone within the community to obtain approval for the child to attend birthday parties and other activities (Required Action 38).

39. Families must be educated about all of their options including custom adoption which can be done by the First Nation Government and approved by the court under section 134(1) of the Act (Required Action 39).

40. In the spirit of partnership, the Yukon Government must provide support – whether it is financially or through capacity – to the family or the First Nation in processing the custom adoption when asked to do so by the family or the First Nation. This may arise in situations where a change in birth certificate is needed or where the family requires an order to allow travel with the adopted child (Required Action 40).

41. When adoption is being considered, the focus must be on maintaining stability for the child (Required Action 41, see p. 26 of the Report for details).

42. Under section 130, an adult adoptee must consent to being adopted. We would change section 130 to add that the adult must be advised of their right to seek independent legal advice before signing the consent (Required Action 42).

43. Family and Children's Services must have no involvement with the family when the adoptee is an adult. The internal policy that requires a criminal records check, a meeting with Family and Children's Services and a recommendation being made to the court before the adoption is made must be eliminated (Required Action 43).

44. Although the guiding principles say that prevention activities are "integral", the Act says very little about prevention. To recognize how "integral" preventive intervention is to safety and well-being, it must be given greater prominence by being written into the Act, policy and regulation in partnership with individual First Nation Governments and communities (Required Action 44); (see also Required Action 1, p. 5, above).

45. When the community requires assistance from the director, they can ask for it under section 175(2). Communities must be made aware that they can ask for this type of assistance and that it "shall" be provided according to the Act (Required Action 45).

46. Each Yukon First Nation Government must have the autonomy with adequate resources to plan and run their own cultural, healing and on-the-land camps (Required Action 46).

47. People who need help should be able to access these camps without barriers. There should not be a long list of criteria someone has to meet before they can attend. If a person or a family has been cleared medically, they can attend (Required Action 47).

48. When on-the-land camps are Yukon-based, it will remove another barrier. We have heard that when a parent or youth is on probation it creates a barrier – the person who is on probation cannot leave the Yukon to attend healing programs. This stalls the process and ultimately delays reunification. A person should be able to attend camp alone or with family members if that is what they need to heal, and a lack of funding must not be raised as an additional barrier (Required Action 48).

49. Since each Yukon community is the best architect of the changes that need to be made. Communities know their families, their needs, and their priorities. Therefore, *"should be involved"* in 3(d) needs to be changed to *"must be involved"* (Required Action 49).

50. A number of preventive interventions were identified by Yukon communities that require follow-up (Required Action 50, see pages 31 – 32 of the Report for details).

51. To be consistent with the Truth and Reconciliation Commission calls to action, data collected by Yukon Government must also show the reasons for apprehension, the total spending on preventive and care services by child-welfare agencies, and the effectiveness of various interventions that have been undertaken (Required Action 51).

52. Data and evaluation over the long-term will provide information about changes that result from focussing on preventive intervention. Data must be collected and evaluated from this perspective and the information must be shared publicly (Required Action 52).

53. Front-line workers have contact with families, children and youth to provide supports and services. We have heard that front-line workers have to obtain consent from a supervisor to provide for basic needs such as bus passes, food, gas, cell phone minutes and recreational passes. To provide ongoing support and emergency funding to meet people's day to day needs, this barrier must be removed (Required Action 53).

54. A navigator is a person who lives in the community and is adequately and additionally funded by the Yukon Government. Funding a facilitator/navigator position will assist with community capacity building. The job description must be developed in

partnership with the community and must not be added as additional work to an existing position (Required Action 54).

55. There should be a family support line that people can call for assistance from their first point of contact and onward. Much like 811 and 911 this support line would be accessible to all people at all times and staffed by an independent person who provides 24/7 access to children, parents and family members to obtain information. The support line would advise the caller of the supports that can be accessed in addition to their right to obtain legal advice (Required Action 55).

56. "Should have" must change to "must have" in section 3(g). The Independent Community Review Panel must be developed by Yukon Government in partnership with individual First Nation Governments. There needs to be a clear, easy and fast-tracked process for people to use to meet section 3(g) of the service delivery principles (Required Action 56).

57. Assessments must be developed with a focus on the needs of the child and family, in partnership with community, non-profit organizations and First Nation Governments. This applies to family, out-of-home placement, and parenting assessments (Required Action 57).

58. Section 186(1) must be amended so that the mandatory case plans and cultural plans are reviewed in partnership on a monthly, not yearly, basis (Required Action 58).

59. It has been suggested to us that the term "ageing out" be eliminated because children should be supported for as long as they need to be supported (Required Action 59).

60. Under the Act, youth who are between the ages of 16 and 19 need to know that they can enter into a youth support agreement (see section 16(1) of the Act). Youth must also be told that support can continue beyond the age of 19, to the age of 24 (see section 17(1) of the Act). The age of 24 needs to be revisited depending on the capacity of the youth who is accessing support (Required Action 60).

61. Supports should continue beyond age 24 for youth with disabilities, including those with Fetal Alcohol Spectrum Disorder (Required Action 61).

62. When the youth's mandatory case and cultural plans are reviewed on a monthly basis through a collaborative planning process in partnership with the youth's First Nation(s) and community supports (see Required Action 58, p. 35, above), plans for the youth to live independently will evolve over time and already be in place when the youth turns 19 (Required Action 62).

63. Youth need to be engaged in the creation of their mandatory case and cultural plans to prepare for transition as active participants. Youth need a safe and supported environment where they can feel comfortable in expressing their individual needs and views. Youth must be engaged in ways that make it comfortable for them to respond and trust that their views will be respected (Required Action 63).

64. The youth's First Nation Government(s) and supports need to be adequately resourced to sit at the table to create these mandatory case and cultural plans through the collaborative process (Required Action 64).

65. When a child is removed from their community and placed in care, financial support must follow the child back to their community when they return (Required Action 65).

66. Communities would like to see Youth Support Centres (Required Action 66, see Report p. 38 for more details).

67. Communities need to be supported by Government financially and otherwise to think innovatively and to create a plan to provide the best options for their youth (Required Action 67).

68. We have also heard the need for community-run residential homes for youth. Community-run residential homes can be an emergency placement option, and also provide a home for youth in their home community as a Yukon Government supported initiative (Required Action 68).

69. We heard that the length of time it takes people who access financial support through the Yukon Government to receive the money is a huge barrier. The Yukon Government must correct this problem and remove this barrier immediately (Required Action 69).

70. We heard that programs that are working to benefit children and families must be financially supported through core-sustainable funding that continues (Required Action 70).

71. Front-line workers provide supports and services to families, children and youth. Front-line workers must be educated about the broad range of support and services they can provide (Required Action 71).

72. Social workers want to have opportunities to share information in ways that respect privacy and confidentiality while encouraging the development of best practices. This needs to happen both internally, with their First Nation counterparts, and inter-jurisdictionally (Required Action 72).

73. Families and children must be able to access supports and services, and to request the assistance of Family and Children's Services even when a Supreme Court proceeding is happening due to the parents' separation (Required Action 73).

74. Yukon needs a massive public education campaign to be developed in partnership with community and First Nation Government partners to provide information about the supports offered under the Act and by First Nation partners in a variety of ways. This must occur in every Yukon community every year as it provides an opportunity for the community to participate (Required Action 74, see page 41 of the Report for details).

75. There does not have to be a child protection concern for families to access the programs and services they need to stay together. Yukon people and workers including experienced social workers, managers and front-line workers, must be thoroughly informed about and made aware of the supports available to maintain and promote the integrity of the family unit (Required Action 75).

76. In section 10 "may include" means "*and are not limited to*" the services and programs that are listed. The section must be changed by adding *"and are not limited to"* after the words "may include" to signal that the list can and should be expanded to meet the specific needs of the family (Required Action 76).

77. Yukon people must be made aware that support agreements are available to help them in various situations (Required Action 77).

78. Section 11(2) provides for review of the support agreement every 6 months which allows for long-term support when needed. These reviews must be followed up and cannot be ignored (Required Action 78).

79. Youth must be educated about the support agreements that are available to them between the ages of 16 and 19 (see Section 16(1) of the Act), and between the ages of 19 and 24 (see Section 17(1)) (Required Action 79).

80. In sections 2(g), (h) and (i) "should be" must be changed to "must be" (Required Action 80).

81. Yukon citizens must be informed of the directors' mandatory obligation under section 34. This must be done through the community education workshops (Required Action 81).

82. The director(s) must ensure that the mandatory obligation to balance the potential harm in removing the child against the potential harm from the child staying in the home is applied in every single case (Required Action 82).

83. To respect the intention of the Act to keep children safe, to keep families together and to focus on prevention, the language in 3(b) must change so that families *"must receive the most effective but least disruptive form of support, assistance and protection".* In addition, the "but" in 3(b) must be changed to "and", otherwise everything that appears before "but" is negated. This change will make section 3(b) consistent with section 34 (Required Action 83).

84. When resources are re-directed to support the family in a comprehensive way that focusses on prevention (Required Action 84); removing children from their home and their family should be the last resort, and the purpose of this section would then be achieved.

85. We heard that the use of extended family care agreements (section 14) has been welcomed by workers and families. The ability of a social worker or family support worker who is well acquainted with the families' needs to be able to offer support through these agreements is invaluable. However, we also heard that grandparents and extended family members do not understand the money they are receiving or how long they will receive it because that is not explained to them. This must change (Required Action 85).

86. Grandparents and extended family members must be offered the support they are entitled to receive under sections 10, 11 and 14 of the Act (Required Action 86).

87. We heard from family and workers that extended family care agreements (section 14) must be changed to allow family members who have care of the child to sign consents and make decisions (Required Action 87).

88. Parents, foster parents and extended family must be specifically informed about this change, and their right to obtain legal advice about why it is important and what it means (Required Action 88).

89. Aged and existing agreements need to be revisited and they need to be reviewed every 6 months in the same way as family support agreements (Required Action 89).

90. Parents must know they have the right to talk to a lawyer before the director explores this possibility with them (Required Action 90).

91. Parents must also be advised of their right to rescind a voluntary care agreement after it is signed (Required Action 91).

92. When parents are educated about their right to receive legal advice, legal aid will require additional funding to provide the public with access to justice on a 24/7 basis (Required Action 92).

93. If the parent wants to waive the right to legal advice and place their children in care, that waiver must be clearly stated in writing, signed by the parent, dated and witnessed by someone who is independent from the Yukon Government (Required Action 93).

94. Parents must be advised that they have the right to ask for and receive support when their child is being removed from their home (Required Action 94).

95. Parents must also be informed of their right to have a support person of their choosing with them when they have contact with Family and Children's Services (Required Action 95).

96. In sections 38 and 39 there is no option for the director to place a child in the care of a relative under an extended family care agreement, or with a community member as an emergency placement when the child is taken into the director's care with or without a warrant. These sections must be changed to provide for these placements so that a child can remain within their community or with their family (Required Action 96).

97. We have heard that social workers who are new to the community or to the Yukon must be paired with a community shadow – a person in or from the community who is knowledgeable and connected. That community person can help create a network and share knowledge with the person who is just coming in. This gives the worker a huge sense of support while creating more community confidence in the worker because they are establishing relationships. This can be accomplished through partnership with the First Nation Government provided the resources, both financial and human, are available to support the community shadow (Required Action 97).

98. We have heard that workers in the communities can and do feel isolated and overworked and this leads to high turnover. Social workers need to be supported to prevent burnout and compassion fatigue. More workers need to be allotted to the communities. Two or more social workers in each community allows for sharing of work-load in addition to coverage and continuity when one social worker is ill or on vacation (Required Action 98).

99. As we travelled throughout the territory, we heard there is a need for many changes to be made to adequately support social workers when doing their jobs (Required Action 99, for a list of specific supports that are required, see p. 49).

100. An Act dealing with the regulation of social workers needs to be drafted from a Yukon perspective. When regulated, social workers will have to remain current about best

practices from an early childhood development, trauma informed, and trauma response lens. A Yukon perspective must be added to the regulation of social workers – without having lived the experience, it is difficult to truly appreciate the historical context of Yukon First Nation people. Respect, knowledge and genuine humility toward cultural awareness without judgment can lead to improved relationships (Required Action 100).

101. We heard that consistent interpretation, direction and education must be provided about the duty to report (section 22(2), (3); section 156) (Required Action 101).

102. Front line workers must be included in determining best practices around same age sexual violence instead of direction being given from the top down (Required Action 102).

103. People need to be educated about what supports they are entitled to receive through family support planning. Each family who accesses support needs an individualized case and cultural plan that is geared to the individual family and their specific needs and circumstances (Required Action 103).

104. The alternate dispute resolution section of the Act is rarely used. Children, youth and families need to know they can go to mediation or use another form of resolution when they disagree with a decision that has been made (Required Action 104).

105. In sections 8, 9 and 178(2)(f) of the Act, "alternate dispute resolution" must be changed to "consensual resolution". This change emphasizes that consensual resolution is the default, not the alternative. (Required Action 105).

106. Consensual Resolution is based in collaborative process and must be defined in section 1 to include mediation, collaboration, and culturally recognized consensual resolution processes such as circles, clan meetings, family meetings and peacemaking circles that are facilitated by someone who is neutral and independent (Required Action 106).

107. Section 8 should be changed to read: *"If a director and a person are unable to resolve an issue relating to a child, they must first attend consensual resolution with a neutral facilitator to resolve the issue before taking any other action, including making an application for a hearing"* (Required Action 107).

108. The neutral facilitator must be paid so that everyone who needs this service has access to it (Required Action 108).

109. Section 8 must also be enhanced to provide for a mandatory judicial settlement conference when the court is involved and when there will be a protective intervention

hearing under section 53. The mandatory judicial settlement conference date must be set in advance of the date set for the court hearing (Required Action 109).

110. The partnership must continue if the First Nation Governments decide to draw down their authority, allowing the two Governments to continue talking to one another (Required Action 110).

111. We have repeatedly heard that the guiding principles often do not make it into front-line practice. When they have, it is person-dependent and when the person leaves, their good practices leave with them. The implementation of policy requires interpretation by the individual who is following the policy. The interpretation of policy can also be affected by common practice and continuing to do something "the way it has always been done". This is why policy is not sufficient to result in the type of change that is required. The Required Actions must be enshrined in the Act and in regulation to facilitate a larger paradigm shift (Required Action 111).

112. Although we heard that Family and Children's Services is working on a revision of the policy manual, the new manual must be created in partnership and shared with individual First Nation partners and community liaison workers to create trust through transparency. This must be done after the Act has been revised and the regulations have been drafted and the new policy must be available on-line (Required Action 112).

113. The name of the Act "The Child and Family Services Act" and the name of the department "Family and Children's Services"— are not currently aligned and must be for consistency. The difference causes unnecessary confusion (Required Action 113).

114. There needs to be a definition added to section 1 that allows the director to provide support and services as an alternate or differential response (under sections 11 – 17) when the director determines that a child is in need of protective intervention (section 21) and decides not to conduct an investigation under section 23(2). An alternate or differential response allows the child to remain protected and the family to stay together with the least intrusive involvement. Alternate or Differential Response is not currently provided for in the Act, it only appears in the Family and Children's Services policy manual (Required Action 114).

115. Many children have special needs that result from physical and psychological harm or addictions. "Special Needs" must be broadly defined in section 1 to include physical and psychological support, access to treatment facilities, and support to family members where there has been trauma including historical trauma (Required Action 115).

116. The Act says that a child is in need of protective intervention when the child has been "abandoned". "Abandonment" is difficult to prove and is rarely used as a reason to take

a child into care. "Abandonment" should either be defined or taken out of the Act entirely (Required Action 116).

117. "Emotional harm" is subjective and allows assumptions to be made and action to be taken based on the lens of the person who is calling something "emotionally harmful". "Emotional harm" can be used as a broad, sweeping power that allows the director to take protective intervention. "Emotional harm" needs to be re-defined or taken out of the Act (Required Action 117).

118. Sections 27 and 28(1) state that the director shall report back to the parent and the child's First Nation Government(s) when an investigation has been started. The director does not have to contact the parents and First Nation Government(s) when an alternate or differential response is provided instead of an investigation and this requirement must be added to these sections (Required Action 118).

119. *"If a director believes a child is in need of protective intervention"* must be deleted from section 29 to make it broad enough to allow for support service agreements to be made when there is no need for protective intervention. Section 29 must refer to section 10 (the services and programs that are available) in addition to sections 11 - 17 (the types of support services agreements that are available) (Required Action 119).

120. We envision a shift from punitive language and action, to providing support and preventive intervention as the first response. In section 35, the term "supervision order" should therefore be changed to a "support services order" so that the emphasis is on the support that is provided to the family as a preventative intervention to keep the child at home (Required Action 120).

121. Section 61 does not provide a starting point for the calculation of a child's age to determine the total cumulative period and must do so. Other jurisdictions make the starting point clear (see Manitoba, British Columbia and Nova Scotia examples). The starting point for calculating a child's age must be made clear in the Act (Required Action 121).

122. Section 61 must also provide flexibility to extend the timelines on a case by case basis that meets the needs of the particular child and his or her family. The judge currently has no ability to extend these timelines and they are often too tight to allow the family sufficient time to heal and reunify (Required Action 122).

123. To respect the privacy of all children, this publication ban must also apply to voluntary care and extended family care agreements. There must also be some ability to exchange information to allow social workers, front-line workers, First Nation Governments and non-government organizations to provide assistance to individual

children and families which means that their information must be shared, with consent (Required Action 123).

124. The director cannot ask the RCMP for information under section 177 because the RCMP does not fall within the definition of a public body under the Access to Information and Privacy Protection Act ("ATIPP"). In other jurisdictions the director's ability to obtain information from the RCMP to assist with an investigation or perform the director's duties under the Act are legislated, or they are part of the RCMP/Family and Children's Services Protocol. This change must also apply to provision of information to the director's First Nation Government counterpart if sections 168 and 173 are implemented the way we have outlined earlier in this report under the "Partnership" Section starting at p. 5, above (Required Action 124).

125. Section 180 states that the disclosure provisions for the director under sections 177-179 overrides ATIPP and gives the director the ability to disclose and obtain information. Section 180 is silent about the Health Information and Privacy Management Act ("HIPMA") and the director's ability to disclose and obtain information should be paramount over HIPMA as well. HIPMA came into force 6 years after the Act. The effect of HIPMA on the Act generally on sections like 118(4) and 180, specifically, must be considered (Required Action 125).

126. It should be noted that the Minister mandated this Committee to be independent and at arms-length. The Committee's independence from the Yukon Government was well received by Yukoners. The requirement that the Committee must be independent and at arms-length from Government is not a legislated, and it must be (Required Action 126).

127. Yukoners also mentioned and appreciated the nomination process that was used by the Minister to appoint the Advisory Committee. The request for nominations was broad. It was sent to individual First Nation Governments, Government and non-government organizations and resulted in a Committee that is varied, experienced in the field, and representative of the population of people who access the service. This broad, independent nomination process should be required and set out in regulation (Required Action 127).

128. To maintain independence, section 183(5) must be changed so that the Chair of the Advisory Committee is chosen by the Advisory Committee and not appointed by the Minister (Required Action 128).

129. People wanted to know that we heard them; they were disillusioned by past experience where they provided input and there was no follow up. The Advisory Committee's report must be broadly circulated to Yukoners who provided information about the implementation and operation of the Act (Required Action 129).

130. The Advisory Committee came up with a list of recommendations to the future Advisory Committee. A list of recommendations should be compiled by each subsequent Advisory Committee and provided to the next one (Required Action 130).

131. Under section 187, the annual report must be authored by the director and the director of each individual First Nation Government (if sections 168 and 173 are implemented as we have outlined under the "Partnership" Section of this report, see Required Action 1, p. 5, above) and submitted to the Minister (Required Action 131).

132. In addition, an annual report that covers the whole territory must be prepared by the director and submitted to the Minister and the individual First Nation Governments (Required Action 132).

133. The words "a parent apparently entitled to custody" in sections 43, 56, 52, 57 and 79 are confusing and they narrow the definition of "parent" in section 1 of the Act. For consistency and clarity, "apparently entitled to custody" must be removed. This provides the director and the Judge with more placement options (Required Action 133).

134. A child's access to parents and extended family members is the child's right and should not be limited unless there are relevant and compelling reasons. The child's right to access must be prominently set out under the best interests section of the Act (see section 4 of the Act) and included in every child's mandatory case and cultural plans (see section 45 of the Act) (Required Action 134).

135. The child's right to access with parents and extended family members must be specifically set out in temporary and continuing care orders, voluntary care agreements and adoption orders. Dates and times must be included so everyone knows when access will happen (Required Action 134).

136. Access is important to maintain connection to family, culture and community. The right to access must include supervised and unsupervised in person contact, electronic and telephone contact, and access to information and photographs (Required Action 136).

137. Children have the right to spend time with their parents more frequently even when their parents have challenges or limitations. That right includes extended visits and overnights in a homelike setting that is safe and supported. It will also reduce the trauma associated with only seeing parents in an institutionalized and cold environment. This will allow children to spend meaningful time doing regular activities with parents, siblings and extended family members (Required Action 137).

138. When access is frustrated (by creating barriers) or denied, a parent, extended family member or child must be able to attend consensual resolution, file a complaint with the

Independent Community Review Panel or make a quick and easy court application to address the issue (Required Action 138).

139. When an order is made it must include a review clause so the order can be reviewed through collaborative process, consensual resolution or by a Judge when requested by a party (Required Action 139).

140. Section 44 adds an additional requirement that must be removed. Section 44 says that the director shall offer co-operative planning when there is a need for protective intervention ***and*** *the director has commenced or intends to commence an application to a Judge or is considering entering into a voluntary care agreement.* To be consistent with section 6(2)(a), the underlined words of section 44 must be removed (Required Action 140).

141. If an order for supervision (which must change to a "support services order" – see Required Action 120) or a temporary or continuing care order is made, and the director applies for a subsequent order or a continuation of the original order, there is no requirement that the hearing take place within a set amount of time (like 45 or 90 days). This means that the application can be made by the director before the expiry of the original order, and the application can be continually adjourned instead of being brought back to court for a hearing. Hearing timelines must apply to subsequent orders the same way they do to original orders, however, there must be flexibility to allow the parties to agree to change the timeline, or the court to order that change (Required Action 141).

142. When counting a child's time in the director's temporary custody under section 61, an interim care order (made before the protective intervention hearing occurs) does not count as custody and must be added to section 61 and included in the calculation of the cumulative amount of time the child can be in the director's care (Required Action 142).

143. When a hearing or application has been scheduled (the "Hearing"), and one of the parties requests an adjournment, the Judge will make an interim care order. Care of the child may be placed with the parents or with the director until the Hearing date. However, once the Judge grants the adjournment, there is no requirement to hold the Hearing within a certain number of days. This oversight allows a party to obtain an adjournment and keep adjourning the Hearing. A child whose Hearing is repeatedly adjourned may be subject to an interim order until he or she turns 19. Under these circumstances, the court does not hear the facts of the case and does not make a decision about whether the child should be in care or be subject to an interim order, and the child remains in limbo. This section must specify a timeline for the hearing to occur unless the parties agree otherwise (Required Action 143).

144. A child can only be subject to a temporary care order for 12, 18 or 24 months, depending on the child's age. When calculating the child's time in the temporary care of the director, the number of days a child spends in care under an interim order does not count. This inconsistency must be corrected so that interim care orders count toward the child's time in temporary care (Required Action 144).

145. While timelines are important and they need to be consistent, we have also heard that the timelines sometimes need to be more flexible. Some children and families require a more patient approach that will take more time than the strict timelines in the Act allow. Flexibility must be built into the Act to provide the court with discretion to extend the timelines and allow for a temporary care order to continue, where appropriate (Required Action 145).

146. In other jurisdictions the Child and Youth Advocate investigates critical incidents, injuries and deaths of children. The Yukon Advocate should have the authority to review the investigation if the circumstances of a child's death are considered "questionable" by the Coroner's Office following the Coroner's investigation. Changes to the Act must be made to allow for a review of the investigation by the Advocate, and those changes must be made in partnership between the Yukon Government, the Advocate, individual First Nation Governments and the Coroner's Office (Required Action 146).

147. When comparing the Act to Bill C-92, sections of the Bill are not mentioned in the Act and must be added, for consistency (Required Action 147 – see pp. 63 – 64 for details).

148. In the spirit of true collaboration, the changes outlined in this Report must be led by an implementation team struck in partnership between the Yukon Government, community and individual First Nation Governments (Required Action 148).

149. To implement the changes Yukoners want to see, the implementation team must focus on building capacity, housing, infrastructure and the necessary supports within each of our Yukon communities (Required Action 149).

The social worker's attitude[4]

The social worker's attitude has a significant effect on the family and is an important factor in how successful a family may or may not be in achieving positive change. Family engagement and the perception of family members of the worker's desire to hear their thoughts and ideas correlate directly to the family's success in carrying out the plan.

To have an effective relationship with a family, social workers must be respectful and considerate in their approach. The more the family verbalizes and prioritizes their needs, the greater the likelihood that they will commit to change.

Sometimes parents expect the social worker to be the expert and make the decisions. If you take on the decision-making, the possibility of a successful outcome is not likely. Plans that are crafted in the office and brought to the family are less successful in achieving outcomes than plans developed with the family from start to finish.

These principles can help you stay focused on your goal of supporting the family to function better:

- No parent deliberately sets out to fail, whatever the outcome. There is probably no greater sense of failure than when one fails as a parent.
- Within a family systems framework, family problems are symptoms of a stressed family system and send legitimate messages on how family members attempt to cope.
- The worker should approach the family situations from a positive perspective, recognizing the strengths of the family. Don't ask *"What is your problem?"* but rather *"What do you hope for?"*
- It is important to be satisfied with small gains and to be persistent in the pursuit of those gains.
- Enhancing family communication is important. What family members have to say to each other is probably more important than what we have to say to them.
- Trust and respect go hand-in-hand. There is little room for either without clear and honest communication.
- The worker respects the rights of the clients during the casework process. One of these rights is the right to access a complaint process.

In conclusion, the importance of the worker's attitude directs each of us to ask: *"How can I as a child welfare worker **build a partnership** with a family and community where there is suspected and substantiated child abuse or neglect?"*

[4] Principles: (Adapted from: Best Practice Guidelines for Assessing Families and Children in Child Welfare Services. California DSS 1998)

Applying these principles results in a shift in how services are delivered.

From professionally-centred [2]	To family-centred
Experts determine need	Families identify need
Families viewed as operating from deficit	Families viewed as operating from capability
Service aimed at correcting family and child's deficits	Services aimed at identifying and strengthening capabilities
Fit family to professional service	Tailor service to unique family need
Low level of family decision-making	High level of family decision-making
Focus on identifying and removing problems	Focus on enhancing competencies
Fixed roles and service provision	Flexible roles and service provision

The following guideposts help enhance our relationships with families:

- Family centred
- Strengths based
- Relationship focused
- Culturally competent

Strengths-based Practice

In strengths-based practice, social work consists principally of enabling people to function independently. We achieve this by working with individuals to identify the resources they have available to make the changes they want.

When a family's capacities are supported, they are more likely to act on their strengths. A belief in an individual's potential for growth and well-being requires an increased attention to that person's resources. This can include their talents, experiences and aspirations. Such a positive focus enhances the likelihood of growth.

In strengths-based practice, the worker engages and assists the family in a "family-led" process to identify their needs and possible solutions to issues. It presumes that families are the principal resource for change.

It is important to distinguish between strengths-*focused* practice (identifying the family's existing strengths) over strengths-*based* practice (collaborating with the family to identify the resources they have to work with to create *change*). [3]

Strengths-based practice does not simply focus on the positives while ignoring the concerns. It creates a comfortable environment that allows both the family and the worker to discuss concerns or challenges. The worker does not tell the family what to do or give advice. Strengths-based practice helps the family recognize and identify what is important to them and supports them in making changes based on their own values. It motivates them to make choices that will support them in being the family they want to be. Strengths are discovered through listening, noticing and paying attention to people.

---

[2] Chart adapted from Best Practice Guidelines for Assessing Families and Children in Child Welfare Services. California DSS 1998.

[3] Neil Barber, *Risking Optimism: Practitioner adaptations of strengths-based practice in statutory child protection work.* Australian Institute of Family Studies. 2004

INTRODUCTION

In the Yukon child welfare context, the family conference (also referred to in research as family group conference or family group decision-making) is a specialized type of cooperative planning based on the New Zealand Family Group Conference model. It is a process that shifts decision-making that is "expert-based" to one that is family-based and is designed to help rebuild a family's support network.

The family conference is a formal meeting where members of a child or youth's immediate family meet with extended family, members of the child's community who are significant to the child, service providers, the worker, and a conference specialist to assist the family in developing a plan for the child. The family then has private time to develop the plan which is presented to the worker for approval.

A family conference is different from other forms of cooperative planning in four key areas:

1. comprehensive preparation time (25 to 40 hours)
2. private family time (where family meets to develop a plan without the presence of workers or service providers)
3. impartial and independent specialist (who facilitates the preparation time and the conference itself)
4. family decision-making power

In a family conference, a neutral person -- a Family Conference Specialist (or facilitator) -- helps everyone focus and work things out in an organized way. The family has the right to decline the conference in favour of another cooperative planning process, court, mediation, or other alternative dispute resolution process.

If the family chooses to have a conference, they make their own decisions but help is provided to sort through issues, learn about supports and services in the community, and make a formal plan that works for the child, builds on strengths, and meets the family's needs.

PURPOSE

As stated in the *Child and Family Services Act* (s.6(1)), the purpose of cooperative planning is to develop a case plan that will:

- serve the best interests of the child;
- take into account the wishes, needs, and role of the family; and
- take into account the child's culture and community.

The objectives of family conferences are:

- to keep children safe by preventing the occurrence and re-occurrence of child abuse and neglect;
- to include family members in the creation of their own plan, increasing their motivation and facilitating implementation of actual services provided for children and their families;
- to strengthen and extend the support networks within and around the family;
- to increase the number of children and youth living safely with immediate or extended family or friends;
- to develop plans for children, which are supported by extended family and significant people in the child or youth's life; and
- to divert cases from court thereby reducing delays in decision making and planning.

POLICY

When a family conference *shall* be offered:

A worker **shall** offer the use of a family conference or other cooperative planning process (CFSA s.6(2) and s.44(1)):

(a) when developing a case plan for a child who a director believes is in need of protective intervention (as set out in subsection 44(1));

(b) when developing a case plan for a child leaving the custody of a director

(c) Is considering entering into a voluntary care agreement); or

(d) a director has commenced or intends to commence an application to a judge under section 35 (Application for supervision order)
    (i) subsection 38(7), (Warrant to bring child into care)
    (ii) subsection 39(4), (Bringing child into care without warrant)
    (iii) subsection 60(1); (Application for a subsequent order)

When developing a case plan for a child leaving the custody of the director (as set out in subsection 18(2)) of the CFSA) refer to Policy 13.15: Children Transitioning Out of Care or Custody.

When a Family Conference *may* be offered:

A worker **may** offer the use of a family conference or other cooperative planning process in any other situation when developing a case plan for the safety or care of a child or support services to be provided to a family. A family conference may be offered:

- to develop a plan to assist in strengthening and supporting a family in caring for a child thought preventive support services;
- at key decision points throughout the case management continuum as a way to plan for children and youth; and/or
- to support placement or placement change decisions, including, but not limited to, out of care placements, planning for permanency, and reunification of a child with family.

A family conference or mediation *is not appropriate* when:

- the referral would prevent or delay actions to protect a child;
- the issue is about the decision by a worker to conduct an investigation into whether a child needs protection;
- the issue is about whether a child needs protection (the facts of the case);
- making decisions about resources or services that are not available; and/or
- there are significant power imbalances or issues about a person's capacity to participate, and the process cannot address those issues.

PROCEDURES

Referral Process

The worker:

- promotes a family conference with the family and offers a referral to a family conference specialist when decisions need to be made about a child;
- provides information relating to the family conference, including the fact that **participation** in a family conference is **voluntary;**
- answers any questions that the family might have about the family conference and explains that, if the family agrees to the process, a family conference specialist will contact them with more information about family conferencing;
- must have consent before referring the family for a family conference; and
- provides pamphlets to family members and explains the purpose of the conference.

Once the worker has confirmed the family's willingness to have a family conference or to have a family conference specialist contact them, the worker will pass on the referral information to the family conference specialist. The referral information will include:

- family names;
- telephone numbers;
- addresses;
- the critical incident that led to family's involvement with family conference;
- the worker's synopsis of the major issues in the situation; and
- the issues or decisions for planning consideration.

There may be service providers or others working with the family who wish to refer the family to a family conference. In these instances the service provider should discuss the idea with the family's worker with the family's knowledge and consent. If after reviewing the service provider's proposal, the worker agrees that a conference may be useful, *and the family has consented*, the worker can then offer a referral to a family conference.

If the family declines participation in a family conference, ensure they have had the processes fully explained to them and they know the option to use family conference will be available to them at any time should they change their mind. Let them know that other means of protecting the child and/or meeting the child's needs need to be explored. If the family chooses not to go ahead with family conferencing or any other co-operative planning process that are less intrusive options, the worker needs to inform the family that some decisions may be made in court without the same opportunities for the family's involvement.

Family conference policies and processes are further described in the Yukon Family Conferencing Reference Manual.

Tips for inviting family member to consider a family conference:

The worker must have consent before referring for a family conference. However, the worker can present the information to the family member in the following way:

- "Family conferencing is an opportunity for you and your family (that is your immediate family, relatives and friends) to discuss what plan you collectively want for your child. As a family group, you will be able to present these recommendations to me (and my supervisor) at the conference for consideration. If your plan ensures that your child is safe and his/her needs are being met, we will accept and support your plan."
- "Before the meeting, a family conference specialist will meet individually with you and also with all the other relatives and friends that will attend the conference. The family conference specialist can see you at your home, at their office or at any other venue on which you both agree. The specialist will tell you how the process works, and will find out if you want to continue. The specialist will find out from you and the rest of the family network who you consider to be family and who you think should attend the conference. The specialist is a facilitator who will also prepare you for the conference."
- "I am confident that your family circle is able to develop a plan for your child, and so hope that you will consider participating. However, this is a voluntary process, and you do not need to agree to conferencing if you do not feel that this will be right for your family. Other options to plan for your child will need to be considered and explored.

FORMS

Referral to Family Conference
Yukon Family Conferencing Reference Manual