

HANSARD

NOVA SCOTIA HOUSE OF ASSEMBLY

COMMITTEE

ON

COMMUNITY SERVICES

Tuesday, September 3, 2019

Committee Room

Legal Issues in Child Protection

Printed and Published by Nova Scotia Hansard Reporting Services

COMMUNITY SERVICES COMMITTEE

Keith Irving (Chair)
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[Hugh MacKay replaced Hon. Gordon Wilson]
[Brad Johns replaced Keith Bain]

In Attendance:

Darlene Henry
Legislative Committee Clerk

Gordon Hebb
Chief Legislative Counsel

WITNESSES

Schulich School of Law, Dalhousie University

Rollie Thompson, Q.C., Professor of Law

Department of Community Services

Leonard Doiron, Executive Director, Child, Youth and Family Supports



House of Assembly
Nova Scotia

HALIFAX, TUESDAY, SEPTEMBER 3, 2019

STANDING COMMITTEE ON COMMUNITY SERVICES

10:00 A.M.

CHAIR

Keith Irving

VICE-CHAIR

Rafah DiCostanzo

DARLENE HENRY (Legislative Committee Clerk): Good morning. I'd like to call the meeting of the Standing Committee on Community Services to order, please.

In the absence of a Chair and Vice-Chair, the committee needs to elect an Acting Chair from among the members present for the purpose of this meeting today only. The floor is now open for nominations. Mr. Horne.

BILL HORNE: I would like to nominate Brendan Maguire as our Chair for today's meeting.

DARLENE HENRY: Are there any further nominations? Hearing none, Mr. Maguire will now chair today's meeting.

[Brendan Maguire assumed the Chair.]

THE CHAIR: Just to start things off, I'd like to introduce a new member of the committee and a fresh new face to politics, Mr. Steve Craig for Sackville-Cobequid. Welcome.

STEVE CRAIG: Thank you very much Mr. Chair and colleagues. I'm not that fresh a new face and not that new to politics as well.

THE CHAIR: We're going to call to order the Standing Committee on Community Services. My name is Brendan Maguire; I'm the Acting Chair for Keith Irving.

Today, the committee will be receiving presentations from Professor Rollie Thompson, Q.C., Professor of Law at Dalhousie University; and Leonard Doiron, Executive Director of Child, Youth and Family Supports with the Department of Community Services.

We're going to get everybody to introduce themselves and we'll start with Ms. Leblanc.

[The committee members introduced themselves.]

THE CHAIR: Two quick things. Washrooms and coffee can be found in the outer room. In case of emergency, you exit through the Granville Street entrance and proceed to the Grand Parade Square by St. Paul's Church. Also, those in attendance please put phones on silent. Only media are allowed to take pictures. Before the witnesses and members speak, please wait for your light to come on.

There was something that was brought to my attention just when we came in here today, and a few people have brought it up to me, the no scent policy in government buildings, so just a reminder to everyone there is a no scent policy in government buildings. We have had people complain about breathing and interference, so just a quick reminder of that.

With that, we will start. Who wants to go first here? Leonard? Let's do it - I recognize Leonard Doiron.

LEONARD DOIRON: Good morning, everybody. My name is Leonard Doiron. I am the Executive Director of Child, Youth, and Family Supports with the Department of Community Services and I really want to thank you for the invitation to discuss legal issues in child protection. As you're probably all well aware, child protection services certainly are part of a much larger context. My hope today is really just to try to share a bit of that context with you to set the stage for our discussion today.

As many of you are also probably aware, the Children and Family Services Act provides that legal mandate for child protection services and there have been revisions to the Act which came into effect in March 2017. Essentially, that was part of our transformation agenda, which I'm going to speak to you a bit about.

The changes to the Children and Family Services Act actually covered a number of different areas, but there were over 90 amendments and they affected primarily the

expansion of the definition of a child's need of protection services, issues around permanency for children in care, services provided to 16- to 18-year-olds, the duty to report, and really focused on the importance of a child's culture, race, religion, and background in terms of permanency planning and placement options for those children.

It's probably important at this point to point out that we actually, because of the duty to report in Nova Scotia - most would consider what we could call a very low threshold - every Nova Scotian, regardless of who they are, if they have even a suspicion that a child may be at risk of child abuse and neglect, has a duty to report. You don't have to have any professional understanding of those dynamics. You just have to actually come to a conscious awareness - I wonder if that child is being abused or neglected. If you have those concerns, you have a duty to report. That duty cannot be delegated to anyone else. You must forthwith make that call.

As you might imagine, we receive a lot of those reports. Many, many, many of those - over half of those reports - actually do not get fully investigated because that threshold is so low. We go through a very rigorous process to determine whether or not we have reasonable grounds to initiate an investigation. Of the ones that actually are opened for investigation, many more of those - about half of those, actually - do not open up for ongoing protection services.

The ones that do open up, those families are provided with supports and services. In some of those files, the risk is such that the family cannot adequately care for and protect the child safely in their own home, and provisions have to be made to remove the child from the physical care of the parents. When that happens, the first option is to place them with family or a relative and not take the child into care at all but rather help facilitate that process with family and then to provide social work services and financial support to the family member to provide care for that child while the family tries to address the risk issues that were placing the child at risk to begin with.

In some cases where that's not possible, the minister has no other obligation but to take the child into care. When we do that, we also try to place the child in their community with a family that most or best approximates that family's situation that the child has come from. Their culture, their race, their religion, and those sorts of things are taken very much into account.

I really need to stress here that the main goal of child protection services is to maintain the integrity of that family and to actually support those families so that they can function independently. When a child unfortunately comes into care, our primary goal is to reunify that family as quick as possible if that's appropriate. When, in the worst-case scenario, that child cannot return home, then the minister has an obligation to achieve permanency in the best interests of that child that meets their cultural, racial, and linguistic heritage. I just wanted to point that out.

As I mentioned, child protection services actually exist in a broader context. Child, Youth, and Family Supports is the division for which I am responsible, and child protection services is a part of that division. The Child, Youth, and Family Supports division delivers programs that serve to improve outcomes for child, youth, and families at risk and also - and this doesn't get spoken about often enough - to strengthen the community that actually supports these families.

When children, due to abuse and neglect, cannot safely be cared for by their parents or another family member, placement in care of the minister is the only alternative. Of course, we take that child into care, and the Act requires the department to act as a wise and conscientious parent.

As I mentioned, the Act was revised and implemented in March. We are required to review the Act every four years - we're about two years into that, but we are monitoring very closely the changes that have been put in place. Again, I just really want to emphasize that placement outside of the home is the last resort. Family reunification is the primary objective. Family and community and cultural connections are extremely important throughout that entire process and achieving permanency for that child, wherever that may be, is the goal.

Child, Youth and Family Supports has the Act and we have the legislative oversight for children and family services. The outcomes and the principles that guide our work are: families, children, and youth at risk be supported with the least intrusive intervention aimed at minimizing the identified risk issues; children and youth have stable placements and nurturing homes; healthy family relationships are maintained; that children, youth, and family has received the support they need; and that children and youth be protected from maltreatment and neglect. Finally, that CYFS provide a continuity and a continuum of services and supports that can be grouped in three broad areas, and I refer to them as the three "big Ps": prevention services, protection services, and placement services.

I'm not going to go through these in any kind of detail today, but I just wanted you to know that broader context, that child protection services also exists in the child welfare system along with prevention and early intervention. Those are a lot of programs to help ensure the healthy development and well-being of vulnerable and at-risk children and youth that prevent family breakdown at the earliest onset and mitigate the need for more intrusive statutory interventions.

Child protection receives, assesses, triggers, and investigates those referrals of abuse and neglect in response to protect children under the age of 19. When that risk can't be sufficiently mitigated in the home, we have to intervene in the least intrusive way we can to mitigate that risk. Once a child does come into our care, we have to match that child with resources when they're unable to remain in their own home, either temporarily or on a long-term basis. That includes foster care, kinship care, adoption, residential services, secure care, et cetera - those sorts of things.

Prevention and early intervention assist vulnerable and at-risk children, youth, and families to support their safety, their development, and their well-being. Many of you will be familiar with some of these. Under family support, we have the Family Resource Centres, the Parenting Journey program, and the Families Plus program which is an intensive protection and early intervention service that allows children who are at risk to receive extensive and intensive 24/7 support, hopefully to mitigate the need for the children to come into care.

We have numerous family services agencies that provide a wide range of services. We have the Men's Intervention Programs. Under youth programs, we have outreach services for youth, Boys and Girls Clubs, Big Brothers and Big Sisters, A Place to Belong - those types of things. Then, of course, we've done an extensive amount of work under our sexual violence strategy around raising public awareness and online training across the province - a huge number of prevention and early intervention grants to community members, really trying to support and embellish the community's responsiveness and to meet the needs head-on. These programs are intended to address those issues early as a way to mitigate that need for child protection involvement.

A transformed Child, Youth and Family Services will see a significantly greater emphasis and investment in the areas of prevention and early intervention and hopefully less on the more intrusive and costly side of the mandated services, which I'm going to talk about in a second.

Child protection - I think I've covered that pretty much. You know that we investigate the reports when received. We intervene where we have to in the least intrusive way, and we take those children into care, if need be. Our main goal again is to return them as quickly to their family as possible if that's at all appropriate. On the other hand, if it's not appropriate - and unfortunately in some situations it's not - we actually have to plan for the permanency of that child.

Placement services, as you can see here, are really when they can't stay home, we have to actually provide that placement option for them. At any given time, there's about 1,000 children in the minister's care and custody. The goal, like any other wise and conscientious parent, is to ensure that the children receive the supports and services necessary to be safe, cared for, and lead a successful life. The best alternative for a child who cannot safely remain with their parents is with another member of their family or an individual who is known by the child or in their community. Obviously, I have already stressed the cultural connections that we have to consider when placement occurs.

[10:15 a.m.]

The placement system itself that we have is actually very complex and diverse. It involves foster families, and it involves child care in residential facilities. I'm happy to say that over 60 per cent of the kids in care are actually in foster homes as opposed to a residential setting. We have made considerable strides in both attracting more foster parents

and understanding and responding to the needs and aspirations of existing foster parents. At this point in time, we're actually seeing a shift downward in the number of children coming into care. Since the implementation of the Act, the number of children in care has actually been on a nice decline, which is the first we have seen in decades.

I did talk to you and referenced a couple of times our transformation and what our goal is. We start from the principle that we believe that all families, children, and parents, want to be safe, secure, and actually achieving their personal best. They want to be very productive and contributing members of society like anybody else. They do not want to draw on the government for resources if they don't have to, and they certainly don't want the government involved in their lives in an intrusive way if they don't have to. Safe, healthy, strong families provide the best option for children. That's where children grow and thrive the best in their families, when they're strong and healthy. Strong, healthy families do the best when they're in strong, healthy communities. That's what the transformation is all about.

On that screen - unfortunately, I don't know if the colours are showing very well there. Those two sort of elongated triangles are showing you that where I really want to get to through the transformation process is for that blue or green colour - whatever is showing up there on the screen - where the greater investment in child welfare is on the prevention and early intervention side and less so on the more intrusive mandated services.

I'm going to be perfectly frank with you, and I think you know this already, waiting for children to be abused and neglected and then becoming involved has very poor outcomes for those children. It's very costly, expensive, intrusive interventions in people's lives, and despite the enormous efforts and the enormous expense of intervening when abuse or neglect has already occurred, it actually limits our ability to change the trajectory of those children, youth, and families. If we can get involved much earlier in a voluntary way with those families and provide the supports and services they need early on, the potential is there that those children will never need to come into the government's care or require the expensive intrusive interventions that we currently have to provide.

In addition, that side of that triangle, the protection side is where all the legal issues are. Right now by waiting until a child has been abused and neglected - and I lived that life for 33 years, I can tell you that's not a pretty sight. It's not a pretty sight either to be on the end of the telephone and hear repeatedly that you have concerns but you can't go out and do anything with the family. You can't assist them.

Hopefully we're getting to the point now where we can actually go out, make our introductions, provide supports and service to them in a voluntary way and rather than just referring them, actually fund all those community-based agencies that are providing those ongoing supports as well and - cross our fingers - that those types of strong healthy interventions at a community level will actually mitigate the risk early on and prevent them from having to come into our care at the other end.

So that's what the transformation is about. It's about flipping our emphasis on the prevention and early intervention side. We're always going to need that other end. We'll never eradicate that completely, but we would love to be able to see that shift and to be honest with you, we actually are starting to see that shift.

We'd like to see a whole lot more child, youth, and family hubs. We want to mobilize community and steward community so the capacity in community grows. We want prevention and early intervention, targeted interventions that help these families early on. We actually want to make sure that the sexual violence programming that exists now has expanded because that's a prevalent problem for us. We also want to integrate family support functioning with all of our service providers and rather than a passive referral to community, we want to be actively engaged in it.

These are just a few highlights here. I've talked about transformation and we've been on this journey now for a couple of years. These are just some of the big highlights that have occurred over the last couple of years that are really starting to show. As I said, we changed the Act which enabled us to intervene earlier and provide these voluntary services. We have what we call Stronger Families Nova Scotia in our prevention and early intervention and this is the mobilization of community and the infusion of resources into community to meet the needs of families early on.

We've identified specialized placement options to actually meet the needs of the kids because the complexity of the children coming into care has been changing and we need our residential and placement options to reflect that. We proclaimed the Act and we've been on the road now for two years and we're monitoring that closely.

We introduced the Alternative Family Care program where, as I mentioned before, if a family is such that we do have to have the child leave the home, the family can do that independent of us and actually appoint a family member or somebody that the child knows and is familiar with and we will support them both financially and with social work services.

We've also designed a new placement collection tool to help us identify exactly what the needs of the child are and what the right placement option would be for them. We've begun to reform our foster care model. As you know, foster parents at the moment are volunteers and they work very hard 24/7 caring for these children and we support them in that, but we're looking at how better to be able to support them and provide them not only with the financial compensation to do it, but also the social work services that go along with.

Not last, because these are just a few - there are many, many more - but we've also redesigned some of our residential services so that they actually can meet the unique needs of children who have been, or are, at risk of sexual exploitation and also for some children who have emotional behavioural issues that place them at risk in other residential type settings.

Those were just a few. As I said, transformation is actually attempting to organize the supports and services in a less adversarial and a less litigious way. It allows and compels the provision of voluntary services well before damage and harm has already occurred to those children and families, and it provides families with much more autonomy.

We're beginning the implementation of what we refer to as family-led decision making. Social work principles are based on that already, but we're trying to embellish that by making it much more prominent in the work that they do in their practice to the point where once risk has been established, we facilitate the family coming together in the absence of professionals and assessing the risk for themselves and then presenting a plan that they want government to support them in implementing. I'm proud to say that our community partners and our government partners come together with us in that support plan and we look at it as a system of care, not just for DCS child welfare but also Education and Early Childhood Development, Health and Wellness, Justice - whoever needs to be involved. We are doing this collectively. We're also trying, at the same time, to support and strengthen community so that they can provide those necessary prevention and early intervention services.

Thank you for the opportunity to share that context. I would like to reiterate that it is a very exciting time for me. I have been at this for 33 years, and I can tell you with absolute honesty that I have never been more excited and proud about the work that we're doing. This is transformative, and this is actually going to make a difference for the families and children in Nova Scotia. I just want to thank you for the opportunity and the invitation to be here.

THE CHAIR: Mr. Thompson.

ROLLIE THOMPSON: I'm here to make two main points, and they will be a contrast to what Leonard said, just so you know. One is that the Nova Scotia child protection system is in crisis. I think it's broadly understood to be in that state on the ground. The second thing, the second point I want you to remember, is that the system has been in trouble for some time due to chronic underfunding, but the legislative amendments that were passed in 2015 and came into effect in 2017 have actually deepened the crisis now. I'm going to give you some actual numbers to give you some sense of the scope of that as we go along.

I will say right off the bat, just to be clear, I'm going to tell you a little bit about my background so we all know where we're coming from. I was a critic of those changes known as Bill No. 112, back when Bill No. 112 was brought in to make amendments to the Children and Family Services Act. I'm here today to say that those amendments, which came in effect March 2017 - I think it's too early to make any definitive statement, but all the signs are actually warning signs if anything, I would say. I'm worried. I'm more worried after those amendments than I was before. Actually, I think some of the serious problems are coming down the line.

A quick thing about my background - I'm a law professor at the law school at Dalhousie. I teach family law. I was a Legal Aid lawyer back in the 1980s. I was the director of Dalhousie Legal Aid Service, which meant I represented mostly parents and youth as well. I actually practised under the old Children's Services Act, which Leonard's old enough to remember - before 1991, we had the Children's Services Act.

I was a member of a six-person legislative review committee that produced a report which eventually became the Children and Family Services Act. I can say here it would never have happened had it not been for Guy LeBlanc, the Minister of Community Services of the day, who pushed that legislation through. I drafted that Statute along with Martha Muggah from the Department of Community Services. I was deeply involved with the department in implementing those changes over three years, both before and after it came into effect in 1991. Then I went back to Legal Aid and started representing parents under the new legislation. That was an interesting test of to what extent the legislation had changed what we did on the ground.

I have continued to work in this area across Canada as well as in Nova Scotia. I won't bore you with that, but I do want to mention one good thing - I was telling Leonard about this earlier. This year at the law school, we will be teaching a child protection law course for the first time ever. That will make us the fourth law school in the country to have such a course. The idea is that students will have a chance to address some of these issues and to meet people from the whole system as well.

I have some slides here, which I'm going to go through. I'm going to try to stick to 10 minutes. I'm quite content to leave other stuff until later, in particular the last slide about suggestions I would make for how to improve the system - I can leave that until later, or I can pick them up as you wish. You all have copies of that. I also gave you an article which I wrote, which you'll read only if you're really determined. I just wanted to let you know that there is a sound basis and a broader perspective for some of what I'm saying today in terms of across the country.

Let me just talk very quickly about the Children and Family Services Act amendments that came into effect in 2017. Leonard has covered them, but I think it's important to remember the four big changes that came with those amendments. The biggest one referred to already was the expanded definitions of child in need of protective services in Section 22, which affects the ability of the department to intervene with a legal process, so I'll talk about that.

That's a significant change. In particular it allows an easier avenue to the courts, contrary to what Leonard has said, and I'm going to explain that later. You don't need those definitions to provide voluntary services in the home and support families.

The second thing is it shortened the times for disposition - let me explain what that means. It means that the period that a child can be in temporary care in the vast majority of cases is fixed at 12 months, irrespective of the child's age, which ignores the child's

sense of time, unlike the old Statute. It also will force older children into permanent care - we haven't quite seen that effect yet, although there's a hint of it.

Also, the amendments restricted the powers of Family Court judges and gave those powers, by and large, to the department. In particular, powers, for example, over the ability to provide access after permanent care. So, those are big changes.

Lastly - and these are a good set of changes, I want to say - the language of the Statute explicitly has provisions that affect Mi'kmaw and Aboriginal children. We know that those children are over-represented in permanent care in Nova Scotia - and in care, generally, I should say - and there are some amendments that were helpful amendments intended to address some of those issues.

As Leonard said - and as the minister said in the Legislature at the time - these changes were said to allow for early intervention. Resources would be devoted to helping families and the results would be fewer children coming into care. That was expressly stated at the time. Those of us who disagreed said that the outcomes were likely different than that. From our early results - and actually the information provided by the department - we got some of this by way of freedom of information, but it's nice to see the numbers laid out here on this sheet on placement services, just to be clear.

The one you want to focus on here is temporary care because that's what's affected by the front end of this legislation: children coming into care. You will notice that in 2017-18, which was the first full year of the Statute, you'll notice it takes a big jump up - about 15 or 16 per cent. More children are in temporary care after this legislation than before it was put into effect. That's the exact opposite of what the minister predicted, and that's exactly what the legislation seemed to be driving towards.

You'll notice it has dropped off a little bit since. It's still up about 10 per cent from before the legislation was proclaimed, but the reason I'm emphasizing that is it's important to appreciate that we now have more children in temporary care as of a given point in time than was the case before these legislative changes. Not only did it not go down, but it went up.

The second thing is court applications. The data on this is hard to get, but I'm one of these people who like data. I actually think it's important to have information about how the system works, so I'm giving you what I can find - one of my points is that we need more information about how the system works. Court applications across the province are generally up a little bit - like four or five per cent - since the legislation came into effect. So, not a big increase because you can bring a court application without taking a child into care, just to give you an idea.

The court applications are up, but Legal Aid is struggling to keep up, particularly in metro. I think it's fair to say the applications in metro have gone up. This is based on anecdotal information from Legal Aid lawyers, but certainly there has been a big jump

since January of 2019, I would say. That's causing problems for Legal Aid to simply respond to the sheer number of court cases involved.

In the face of these demands, and this is something that wasn't mentioned earlier, but I want to mention this - the departmental spending on child protection has gone up 3 per cent over those three years. That's less than the rate of inflation, so if we're doing early intervention, we're doing it with less money than was spent before this legislation came into effect. There has been no fresh spending on early intervention. There have been some additional services and some additional changes, but globally, no increase in spending on children and families - I want to make that point. That's based on the Estimates, by the way; those are not my numbers. That's based on going through the Estimates each year for Child, Youth, and Family Services.

Really, not much change in full-time equivalent employment, either. This is something you will hear from the College of Social Workers who have been saying that caseloads are up, worker burnout is a problem, and turnover is a serious problem.

By the way, when workers change over or get sick and don't work, that causes real problems for the families involved because you're changing the people you're dealing with - I have a new person, can I trust them, how do I work with them? That interferes with all the early intervention we're talking about. If you want to see any of that material, you can take a look at childwelfareonthebrink.org, which is the College of Social Workers website that deals with that.

The last point I want to make, just in terms of context - I know I'm a cheerful guy - is the question of child poverty, and this is worth mentioning. There's no question that child protection concerns are greatest - they reflect, in many cases, parental poverty. That's the situation that children live in. Nova Scotia now has the highest rate of child poverty of any province in Canada: 17 per cent of the children under age 18 live in poverty according to Statistics Canada.

The even more amazing thing is that in 2017, child poverty was reduced in every Canadian province; guess why? Because of the introduction of the richer Canada Child Benefit by the federal Liberal Government, which is a remarkable measure. It has pulled kids out of poverty across the country, but not in Nova Scotia. Our child poverty went up in a year when everybody else's went down.

As I say, the Canada Child Benefit was a huge factor in that. You have to say we need to look harder at provincial income assistance rates and policies and how they affect in particular people caught within the child welfare system. For example, if you're in the child welfare system and your kids are removed from your home, you lose the Canada Child Benefit, which is a significant amount of money now, just to take a simple example. By the way, that covers almost all your cost of children.

I'm going to say a few quick things about Bill No. 112, but I think it's something we should talk about more later. There's a really important point in what Leonard was saying earlier. I just want to make this point, which is that you don't need legislation and Statutes to work with families. You don't need legislated definitions to go into a home and work with - most families will happily and voluntarily accept help and services. To the extent that families are agreeable to that, you don't need definitions of child in need of protective services that deal with that. You don't need the court process. What you need is two things: you need good workers - of which we have lots - who can work with families on a voluntary basis, sometimes work through resistance; and second, the money for the services to assist them so they have something practical and useful to offer families when they work with them.

The reason I'm emphasizing this is the definitions of a child in need of protective services have important implications in the court process and going to court. But if you want to intervene early in families, and you want to intervene on a voluntary basis, it's not the definitions that matter. It's funding and people.

The definitions do have an effect. Professionals and officials in particular have a duty to report if they have reasonable grounds to suspect a child is in need of protective services either in the past or now - we'll talk about the future part of that later. A protection worker can investigate just about any case if you have reasonable grounds and this is important because the definitions say a child has suffered physical harm or there's a substantial risk of a child suffering physical harm. Let's just take that as an example.

All a worker needs to investigate is reasonable grounds to believe. It's not that you actually have to be able to prove it the day you knock on the door. The whole point of knocking on the door is to actually gather information and find out what's going on. The result of that is as long as you have reasonable grounds, and if you have a report from a relative about physical harm or neglect or whatever, that is enough to provide reasonable grounds, in most cases, to knock on that door and to investigate.

My point is that you're not tied to the language of these definitions in the Statute. All you have to have is reasonable grounds to believe. Leonard got it right, which is that to report, you just have to have a suspicion. What we always tell people is, if you see something you think you should report, you report it, and the intake worker will figure out how important it is. It's your job to report when you have a suspicion. It's their job to figure out what's an important case, what needs follow-up, and what doesn't.

The reason I'm emphasizing that is reporting, as a result, is actually even broader. If there's any suspicion at all - professionals, it's reasonable grounds to suspect. The worker can investigate if there's reasonable grounds. commence a court application when you only have reasonable grounds to believe a child is in need of protective services, so you don't actually have to know everything even at the start and that's the test the court applies, by and large, at the front end of the process. We can talk about more of that later.

The only time you actually have to prove these definitions is when you get to a hearing and you have to prove in the balance of probabilities that this child is, in fact, a child in need of protective services. Just so you know, the idea of those definitions is to lay out minimum standards of parenting in the Province of Nova Scotia. This is the standard below which no child should fall.

Just a reminder, and I don't need to tell you this - there are lots of different ways to parent. One of the problems we have in child protection legislation is that we can say some things are clearly bad parenting, but we also struggle at times with trying to figure out what's better: A versus B. I'm just saying that we always have provided a fair degree of latitude for parents to rear their children as they see fit, recognizing that we have a little bit of difficulty sometimes saying whether this parenting style is better than that one. What we can say is when they fall below this standard, we should intervene and do something to help the family, and if that doesn't work, to place the child in temporary or permanent care.

By the way, while I'm on the subject of permanent care, you'll notice that on the statistics provided by the department - I have somewhat similar numbers from the department - it shows that children in permanent care are declining. I just want to alert you to one thing: that group in the population as a whole is declining. That group of older children, 16 to 19 and slightly above that, are declining as a whole. It's not surprising that population care is also declining, but what's worrisome here is to notice that it has stopped declining. It has been a pretty steady decline and it has stopped. One of the concerns is the legislation which forces older children into permanent care, whether they want it or not. A worrisome part of that is that it might increase.

To get to permanent care, you have to go through a whole court process, and I want to focus on the front end again. One more point I'm going to make and then I'm going to stop for a bit, which is it's important to remember there are definitions in the Statute about physical harm and sexual abuse. I want to emphasize that about 15 per cent of cases involve those two which are the two we tend to think of when we think of child abuse and child neglect. About 85 per cent of cases involve domestic violence, neglect, emotional harm or emotional maltreatment - various definitions. So 85 per cent of cases involve that which there's a lot of judgment involved in many cases.

I'm just going to say this now and we can pick it up later: those are the parts of the Statute - the definitions of emotional abuse, of neglect, and of domestic violence - that cause the most difficulties that are not drafted very well and can cause some serious problems in terms of how far they reach. Keep in mind that every time you draft those statutory definitions broadly, you do widen the legal net. You don't necessarily widen the actual helping net, but you widen the legal net. I'm just saying we've done that.

We can talk some more about reporting, as well. I'm keeping an eye on the clock. I just want to mention this about time limits, this is an important point. Bill No. 112 changed the Children and Family Services Act to say that the maximum a child can spend in temporary care is 12 months - whether that child is six months old or 14. The old Statute

recognized that children under six required a shorter period of time, but children aged six to 11 could have a longer period of time to respect the child's sense of time. Not only that, but the old Statute also said that there was no automatic time limit for children once they turn 12 and are in care. The reason for that being that it should be a judgment call in each case. Some of those kids want to end up in permanent care and some won't. The idea is you shouldn't force it.

I practiced under the Children's Services Act which forced kids into permanent care and we wound up making all kinds of crazy arrangements to allow parental input and give thought to older children's wishes and placements. So it was considered a really important change in 1991 to say that once a child reaches the age of 12 - by the way, if you want to adopt a child, you need the child's consent from 12 and up. We thought it was important to say this shouldn't be automatic. You shouldn't force older kids into permanent care. This new legislation does that. We may be seeing some signs of it. I don't know.

[10:45 a.m.]

The last point is that once upon a time, judges could, in appropriate cases, make orders for access by parents and siblings to children in care after permanent care. The legislation now does not permit courts to make those orders - it's entirely up to the agency without review. That's a significant change. The thinking is that there are many cases in which that sort of lifeline to older family is important. My point is that we don't let judges make those decisions any more under this legislation.

I'll stop there. I have some other points to make, but I'll stop there for now. Thank you for your time.

THE CHAIR: Ms. Leblanc.

SUSAN LEBLANC: Thank you both very much. I'm just going to start with a question for you, Mr. Thompson. You talked a little bit about the changes that came into effect. We hear about the changes that are wonderful, and we have just heard from you that your comments are in contrast to Mr. Doiron's comments. I'm wondering if you can talk a little bit more about maybe a case study, for instance - a day in the life of someone whose door gets knocked on by child and family protection, and what they go through in that first couple of weeks in the court system if their child is apprehended or if they're under investigation. Just real quick, what would that be like?

ROLLIE THOMPSON: There's actually no typical case - that's one of the hard things about this area. Every case is different. I think Leonard will agree - some cases have a very long history, and some cases have very short emergency experience. Police come to a home, and there's domestic violence. They're arresting one or both parents involved, and suddenly you have a child who needs care, boom - just like that.

In other cases, you have a long history with the family, maybe even prior children. As a result of that, the agency actually knows a great deal about the family and quite often will be providing support and everything else, and then things go south for some reason. It can be a wide range of things: you lose your housing, issues around mental health, issues around drug use. There are all kinds of things that can happen, but there's also just the bad things that happen to you in life, especially financial - particularly losing your housing. That would be a big part of it.

The quick answer is it depends on a case-by case basis. Someone comes out and knocks on your door. Initially, it depends on your history with the agency. Some people find it terrifying when that knock on the door happens because they have had bad experiences in the past. Others get offered help and happily accept help. The important thing is that there are thousands and thousands - 11,000 or 12,000 - reports. They get winnowed down after investigation to a number of files being opened. A proportion of those end up in the court system.

I would say - and this is the guy who's going to correct me - the bulk of the cases where children are taken into care are actually cases with a longer history and where it's not an emergency, if I can put it that way. There's a proportion of cases that are emergencies, but the vast majority of cases are cases where people have been struggling along and a decision gets taken by a team as to whether it's time to step in and go to court. Is that fair?

LEONARD DOIRON: I couldn't agree more with Mr. Thompson. Most of the cases that open and go to court and, as he says, come into care are those where we have a very long knowledge of the situation and limited opportunities to investigate until the abuse has occurred and the damage is done and we can actually take them to court.

SUSAN LEBLANC: You were mentioning earlier about how there's a real strain on Legal Aid right now. My understanding is that if a child is apprehended, there's a five-day period, and then there's a court date. If someone calls my office, and they say, this has happened so what do I do, I say, call Legal Aid and get a lawyer right away, but also I think people are supposedly given a list of services. When that happens now, at least in metro, are people able to get a lawyer in time for that five-day court date?

ROLLIE THOMPSON: No. The quick answer is no; it's very hard to do that. Keep in mind, the reason we have a five-day hearing is because some provinces require a warrant - a judicial order - to take a child into care in a non-emergency case. In Nova Scotia when we drafted the Children and Family Services Act in 1991, we made the decision not to go that route, but to do something that Ontario had done - which, subsequently, the Supreme Court of Canada has said is constitutional - which is a fair, prompt, post-apprehension hearing. The five-day hearing must take place within five business days of the child being taken into care.

At that time, a judge basically reviews the department's affidavit to see whether there are reasonable grounds to believe the child's in need of protective service - a very low bar to meet. The difficulty with the five-day hearing, of course, is if a parent wasn't in crisis before the child was apprehended, they go into crisis afterwards. Five days is a very tight schedule for anybody, but keep in mind what that five-day hearing is doing. The judge has an absolute duty to review the affidavit of the department. Most of those first appearances are going to be 15 minutes at a maximum, so even if you are represented at that hearing, most often it's going to get adjourned to be concluded within 30 days.

The judge can't adjourn until the judge has gone through that affidavit and said there are reasonable grounds, and sometimes there aren't. In most cases, there are, but in some cases there aren't, and the parents can contest at the five-day hearing. Most parents want to contest one of two things, though. They want to contest that the child shouldn't be in the department's care, but should be returned to them, which requires more time than 15 minutes, or the parents are saying they want more access - more time with our newborn child than the department's offering. So there can be arguments about how much time you get, which is pretty crucial for younger children. All those kinds of issues all get booted down the road for a week or two weeks, somewhere within the 30 days.

The reason I want to put this in perspective is to say part of the five-day hearing is for a judge to be able to make those judgments: is this a case where we're all in agreement, or is this a case where there's a dispute and we have to hold a bigger hearing? The first thing I've got to do is make sure there are reasonable grounds for the department to intervene. It's after the fact, but the reason I'm saying that is it's very hard for Legal Aid to get that first five-day hearing. If you already have them as a client, then you can get there. If you've already been involved with the family - and this is where there's a pilot project on the go - if you can involve the Legal Aid lawyers earlier when families are facing difficulties, then you would actually have a developed relationship and it would be easier to make that five-day hearing, is what I'm saying.

I think that's a failing in the current system. There is an attempt to address it, but I don't think it has been terribly successful yet, but Leonard may have a different view. The fact of the matter is that it's hard to get to the five-day hearing. It's just hard to get your act together, and the other thing is by the time the lawyer finds out about it, it's often a few days after that. Some of those five-day hearings, you don't find out about them until after the five days are up because the parents have difficulty getting in contact. Keep in mind the purpose of the five-day hearing: as much as anything, it's to make sure the department has got reasonable grounds for the step they're taking.

The answer is that the five-day hearing is good if you can get Legal Aid lawyers there in time. It probably practically isn't possible for some, especially the new emergency cases where they have never had a lawyer before. In those, though, you've got to be able to respond within the 30-day period, otherwise every day that child's in care, rather than home with the parents, has implications for the child, too.

THE CHAIR: Did you want to respond, Mr. Doiron?

LEONARD DOIRON: Thank you very much. I'm not too sure of the process. I'm happy to respond to any and all of them. The thinnest slice of ham has two sides and almost everything that you're going to hear will be on one side or the other.

I just wanted to point out in this particular discussion around the five-day hearing and the use of the word apprehension; we actually don't refer to it as apprehension any more. It's really called a taking into care and that actually does exist. What that means - a taking into care actually occurs in an emergency situation. That's when a worker is in an urgent situation and there is no time. The child must come into care immediately.

Keep in mind that even in those urgent situations, every attempt is made to place that child with a family member or kin or someone that knows the child, and we will work with that family member as long as they can ensure the safety of that child. Access arrangements and all those kinds of things are taken into account then. It's only when after all of that that we cannot ensure the safety of the child outside of that system that we would place the child somewhere else.

Within five days, we have to be in court to prove and, despite Mr. Thompson's assertion that that's a very light test - trust me, I'd love for one of you to go through that process in five days. That's not a light test. We have to prove that we acted, having sufficient grounds to take that child into care. That authority is provided to social workers with designation as representatives. It's the highest authority in the land. A police officer cannot apprehend without a warrant; a social worker can. With that comes incredible accountabilities to the court to prove that. That's why we're in court in five days. Very, very, very few of those - despite Mr. Thompson's assertion - actually get rescinded.

THE CHAIR: Okay Mr. Craig, let's go.

STEVE CRAIG: Thank you, Mr. Chair. As Mr. Doiron and Professor Thompson sort of alluded to - I'm not sure of the process, either, but being respectful of the committee, I'm sure a lot of the questions I have would be asked by other members. I've got a couple of questions.

THE CHAIR: You get a question and then a follow-up, then we go around and then we come back to you.

STEVE CRAIG: So, there are six members after me.

THE CHAIR: NDP, Conservative, Liberal and it goes around.

STEVE CRAIG: Okay, member, member, member, member.

THE CHAIR: Anyone from the caucus can ask. So, if Mr. Johns wants to ask the next question, he can. If you want to ask the next 10 questions, you can.

STEVE CRAIG: Okay. So again, help me understand because I'm brand new; you're all experienced - a wealth of experience here. So, if I want to engage further, it's okay for me to approach Mr. Doiron or Professor Thompson later?

THE CHAIR: Yes, anytime you want to. We're not going to stop you from that, but how it works now is, you ask a question and they'll answer and then you follow up.

STEVE CRAIG: Okay perfect. I've got a ton of questions.

THE CHAIR: Perfect.

STEVE CRAIG: It's a fascinating topic and I look forward to meeting with you, Mr. Doiron and you, Professor Thompson, at another time. Having said that, I'm going to approach this a little bit differently, I think.

We're talking about rebalancing the system and you both have noted, one, a decrease in permanent and the other, an increase in temporary. I don't know if that's a rebalancing because using your wedge example or graphic, that seems to be what you're getting at and yet there seems to be some issues around that.

When I take a look at a wise and conscientious parent and looking at children and children being safe and cared for and leading a successful life, that's I think what we all strive to do as parents and guardians. When I look at the numbers, I'm concerned about two things. One is how people come into care and what that preventive nature - that nurturing, that helping, a guardian, a parent, a family - looks like, that's one case but I'm also concerned about the province's ability to step into that role.

Once you have people in permanent care and they're housed - Mr. Doiron, you said that there would be 60 per cent in foster - I'm assuming foster kinship, bundling that - and 40 per cent of that 40 per cent, so about 16 per cent, would be elsewhere. They would be in a group home; in an institution like Reigh Allen Centre; in Wood Street; either secure or residential; in a place of safety, and God forbid, but would likely happen, in the corrections facility. So, that's it.

What is it that the department does to assist those who come into care, and are in permanent care, to get their education, to get their medical treatment via assessment that they need and in a timely fashion? Does the department actually follow up once you reach 18, maybe it extends to 19 if you're going to university or something - perhaps you're up to 21, the age of majority. How do we know what is happening to all those children who come into permanent care, and what actually happens once they leave care? Do we know with some confidence that they are safe and cared for and that they are leading a successful life?

[11:00 a.m.]

THE CHAIR: Mr. Doiron, did you want me to answer that or did you want to answer that? (Laughter)

LEONARD DOIRON: There were a lot of questions in there, so I'll try to cover what I think you were getting at. The first thing I want to point out is, you were talking about the rebalancing, and you were noticing what we would consider not a dramatic increase. Those numbers, in terms of temporary care, shift all the time. What I really want to point out is that temporary care doesn't necessarily mean that children are out of the home. It just means a status of the file. Many of those children are actually with kinship arrangements or under supervision with their families. I just want you to be aware of that nuance.

When a child actually comes into care, Mr. Craig, the first thing that happens is a case plan is developed immediately, a plan of care for that child. That plan of care has to take into account all the child's specific needs, and every child is different, as you have talked about here already today. Those individual case plans have to be tailored to meet the individual needs of that particular child, so the kinds of supports and services that would go in are varied. They're multi-faceted.

As a wise and conscientious parent, government has a responsibility to make sure the child gets those services that it needs. Regardless of what they are, we try to put them in place. That includes all of the peripheral types of things as well, like camping and sports and you name it. Whatever that child needs, we will try to provide whatever level of support they need to make the most of their situation.

That plan has to be in place within 30 days, and then it's rigorously reviewed every 90 days thereafter to make sure those services are actually in place and how the child is progressing. That stays in place as long as the child is in care.

For those children who want to pursue educational trades, whether they want to go to university or those kinds of things - that's fully supported. Their tuition, their residence, their transportation, their visits back to the families or wherever they want to be, any kind of extra supports they may need to advance their employment or educational aspirations is fully supported.

At the point in time the care and custody expires, and those children age out of care - a term that's often used - we work with them as well. If they want to extend their care status until the age of 24, we would be happy to enter into a post care and custody agreement with them. Because many young people at that stage of their life sometimes want to gain some independence from parents, and us being the wise and conscientious parent we're supposed to be, they may not be open to those ongoing support services, and they may decline. However, if they come back to us a year later and say, I have

reconsidered and I want to go to university now, we will re-engage with them and support them to that university process.

The one point I would like to make - you asked a very specific question about whether we have any outreach after the fact. I wish we had some way to stay in touch with them on an ongoing basis, but at some point, they want to be distanced from us. Not everybody wants to be identified as a child who has been in previous care. I am happy to say that we do have a youth round table of previous children in care and custody or any care status, for that matter, who we engage on all aspects of our transformation, and we try to get input from them as best we can. I hope that satisfies your question.

STEVE CRAIG: Thank you very much, Mr. Doiron, for that. On the intake side, how is it in your graphic on Page 9, you have prevention, protection, placement - the three Ps. Where do you start and what's your role and responsibility relative to prevention? Where does coming into custody take place here, whether it be temporary or permanent? Further to that, what is the unmet need out there that doesn't even meet this graph yet?

If we're going to do the early interventions. If we're going to do the social determinants of good health, mental or behavioural or whatever it is - how is that being addressed in this plan or is it if they try to come through our door, we can with our resources and training that's required, the system integrations, the understanding of the complete environment to encapsulate that child and be child-centric? Where does that start and where does it end?

LEONARD DOIRON: Thank you, again, Mr. Craig for that. It's kind of a complicated answer because I think what you're referring to, and I don't want to confuse anyone. Child welfare services, which includes early prevention and early intervention, is universal in its nature, so any of the supports and services that we put in place or fund or support community to offer, is open to anyone but they really are designed and placed in a way that's targeted so that families having stress in their lives or whatever would voluntarily access those services before they actually come to the attention of a child welfare agency.

The only time they come to the attention of a child welfare agency is if they themselves self-refer to us or if some concerned family or community member sees something that causes that duty to report. Then we get involved at that point from a child welfare perspective. What we do is we go through that very rigorous process: does this referral information actually meet the test to initiate investigation? If it doesn't, we will just probably respond to the referral source saying that it doesn't meet the test, but we don't have a right to reach out to the family at that time, because we have no grounds to intervene. We absolutely don't unless they self-refer.

On the other hand, if we have grounds to intervene, that's the first thing we do is we assess the risk and then if it's on that very, very low initial end of things, we actually connect them with those community-based resources.

You asked at what point do they come into care. That is the absolute last resort and they only come into care when the parents cannot safely maintain those children in their own homes. They only come into the minister's care when we can't identify, in conjunction with the parents, family or kin or someone that's known and the child is comfortable with, placing them there outside of our care status. That's when that comes into account. I don't know if that covered your questions.

THE CHAIR: Mr. Jessome, please.

BEN JESSOME: Thank you for your time, gentlemen. I'd like to revisit this focus on temporary versus permanent care and I'll plead a little ignorant to the system as a whole here, so this is kind of fact-finding.

Where my headspace goes is that, regardless of whether there may be an increase year over year with respect to temporary children, to me that reads as the system making an attempt to try and rectify a circumstance. My thought process is that with respect to the numbers that we want to be truly conscientious about is with respect to the number of children remaining and staying in the system. To me, it's a positive thing to see someone come into care and be able to transition, with supports, to get back and lead normal productive lives.

I guess I'm just looking for some commentary on both sides as to why we would focus on permanent care versus temporary care with respect to assessing the viability or the productivity of the system as a whole.

THE CHAIR: Mr. Doiron.

LEONARD DOIRON: Thank you, Mr. Jessome. I couldn't agree with you more, actually. It's exactly the point. If the temporary care status is intermediate, it just means that we actually are providing a service to that family and children. They will ebb and flow; the number of children coming into permanent care is really the indicator of saying whether or not we were involved with the family.

As Mr. Thompson pointed out - again, those two sides of that slice of ham - it's fascinating to me around the child's sense of time and Mr. Thompson has raised it a few times now. I can't stress enough a child's sense of time and the impact that has. What those changes in the legislation have done has ensured that it is the child's sense of time that is actually respected. What has been happening long before and in 1991 - and Mr. Thompson was very helpful in getting us to that point. Prior to 1991, those children were in limbo forever. They never achieved permanency because application after application and appeal after appeal after appeal - those kids never knew what permanency looked like.

In 1991, we strengthened that and there were very specific time limits and low and behold, that had a great impact. Not only the parents, but government was also accountable to the same time frames to provide services to help the family and the court was the

arbitrator to say that the family has exhausted their options to try and resolve the risk. They cannot meet the child's needs now and probably will never likely meet them in the future, so they're making a decision around permanency. That is true now for all kids and that's a good thing.

A day in the life of a child in limbo is excruciating. It's very different for an adult. If I'm an addict and I go to one class and I fail it, and then I go to another one and I fail it, and I go to another one and I fail it - there's a point which the child's sense of time needs to be respected.

I would adamantly argue that the child's sense of time is the one that's being respected here. The Act is predicated on balancing the rights of the parents with the rights of the child and when there's a contest, it's the best interest of the child that prevails. The courts are adamant about that, and they stress it. We're required by law to prove that point and we have to show that the parents have tried and failed - usually repeatedly - to make the differences they need to make.

To your point, Mr. Jessome, absolutely it's the number of permanent care and custody that we're primarily concerned about. Temporary care and custody, as I said, means multiple different types of statuses and that just means there's an infusion of services that are going into the families to help them ameliorate that risk. We're happy to say that most of those kids are not going to come into permanent care and custody because the services are working.

The last thing I want to say around this whole issue is around the notion that the budget is different. We have \$100 million budget in child welfare; \$13.5 million has been put in place over the last few years to actually embellish our prevention and early intervention services. There are many, many more extensive plans in place to actually work on that, as well. I just want to correct some of the potential misunderstanding. My budget has not decreased, in fact it's increasing. I just want to lay that out there that there has been a much more substantial increase in prevention and early intervention.

THE CHAIR: Professor Thompson.

ROLLIE THOMPSON: There's some important things here. Just to clarify about what you've asked, Mr. Jessome. Number one is it's important not to compare apples and oranges here. Children in permanent care, according to these statistics, could have been in permanent care as much as 16 years ago. That's an accumulation over many, many years. The children coming into temporary care are those who came into temporary care or are in temporary care as of this point in time this year. I'm just emphasizing that it's important to appreciate that you can't look at those as if they're both happening in the same year. Kids in permanent care as of March 2019 could have gone into care years ago and just never been adopted and continued to be placed in a foster family in a long-term placement. That's one thing I wanted to be clear about.

[11:15 a.m.]

On the time limits, I want to mention this because this is something that's really, really important to understand in this province - I do lots of work across the country. We wrote in time limits not only for the five-day hearing, the 30-day hearing, 90 days to a protection hearing, but also we wrote in time limits of 12 months for children under the age of six when the process starts, extending to 18 months for children 6 to 11 - who, by the way, their odds of adopting go down, and not only that, but their understanding and knowledge of their parents go up, and they have a better sense of time. That's what we call child sense of time for those older kids.

The reason I'm emphasizing this is because we have time limits in our legislation which are reasonable time limits especially in a disposition process, which is how long in temporary care. Our judges and our courts have complied with those time limits that are legislated to a degree that is the envy of the rest of the country. People are amazed that we can do it.

I'm emphasizing this because if you look at legislated time limits in other parts of Canada, they are never complied with. Ontario has a 24-month limit on how long a child can be in temporary care. They go on way longer than that, and why? Because their courts don't enforce the time limits in the legislation. I just want to emphasize this, that any time you see comparisons of what's on paper between Nova Scotia and the rest of the country, we in Nova Scotia do incredibly well in responding. Part of the reason for that - five-day hearings are complicated, but judges get it done; 30-day hearings, again, are hard, but the system gets it done. That is not true in Ontario. In Ontario you can wait six months or eight months before you even get an interim hearing. Places like B.C. and Manitoba are even worse.

We comply with time limits, and why? Because they're sensible and because they reflect reality. When we say 12 months for every child whether they're one day old or 14, we're not reflecting reality, and we're not reflecting the child's understanding of the situation and their ability to wait a little bit longer for their parents to get their act together to possibly go back home. I'm just saying our judges comply with these time limits and do a remarkable job of it. That should be kept in mind. That's number one.

Time limits are important precisely because a time limit says parents need time to address the problems and fix the problems in their life to the extent that they can. The court will make a judgment eventually as to whether the parents are able to do that. Some can, and some can't.

Here's the problem. To the extent that services are hard to get to, that 12-month time limit can be very, very unfair to parents and children. I really hate this notion that there's somehow parents versus children. If you want children to return home, then you have to provide - in particular we're having trouble with mental health services for families and children. If you have to wait a long time in line, then you're just marking time trying

to get in, and sometimes the time runs out, and it runs out through no fault of the parents and no fault of the kids. It's just a lack of availability of services.

The reason I'm emphasizing this is that time limit of 12 months that's up there or 12 to 18 months like in the old days is an attempt also to give parents and children a fair chance to be reunited. I would say the current 12-month limit, if we had the services in place, might be fair. In fact, if I had my druthers, I would shorten the limit for very young children, but you can only do that if you have a proper social assistance system for the parents that properly reflects their situation - if you have the services available, in particular mental health and other services, for those children and families.

I'm just saying you can shorten the time limits to something that perhaps Leonard will be happy with if you're prepared to fund it. You can't do it if you don't fund it because then what you do is force children into long-term care simply because you can't find some service.

THE CHAIR: We're going to allow for a follow-up, but I do want to make people aware of the time. We are not even through a full round yet, and we have about 15 minutes left. Quick questions and quick answers - we'll be cutting people off. That was to both of you, and everyone around the table.

BEN JESSOME: Both sets of commentary are a good segue to my question, and it has to do with budgeting and staffing. I would just like to say that on one side, there was an indication of the road map that exists and an aspiration to make improvements and improvements that were taking place.

Mr. Doiron, could you elaborate on - on one end, we're hearing that the situation is in crisis, and on the other we have a sense of optimism and excitement that there's things that are happening and a commentary that it's tied to budget and people. Could you get into that?

[11:21 a.m. Ben Jessome took the Chair.]

LEONARD DOIRON: I know you want me to be quick - there are a couple of things there.

First and foremost, I want to stress that a child protection social worker is probably one of the most difficult jobs in the world. Having been one myself for many, many years, I know exactly what that feels like. I have nothing but the absolute respect for those people and the jobs that they do. Any comments I make about the work that these social workers are taking part in are with that absolute personal knowledge and respect for what that entails.

That being said, I want to make it really clear that work and caseload are different things, right? On the one hand, our caseload is well within standard. We monitor those. We

have an average standard in Nova Scotia of 20 cases - mixed, high, medium, and low. Based on the number of social workers we have and the number of files, I can honestly tell you we're well within the standard. On the other hand, I don't mean to suggest that that equates to workload. There were times in my career when I had one case that overwhelmed me versus having 20 when I could have actually taken on more. I want to make that distinction that workload and caseload are different, but in terms of caseload stats, we are well within the standards.

That being said, I also want to express that we consulted heavily with our staff about the changes we're making, and they very much want to get away from this litigious adversarial nature of the social work that they have been doing for years. They want to get into supporting families and having stronger relationships with those families and to actually conduct their social work in the way that they aspired to when they joined us in the beginning. They don't want to have a whole bunch of cases before court. They want to intervene earlier and more effectively, and they would like to take pride in the changes that are occurring in the family.

The last thing I wanted to say was that it's really around redesigning the system, and that always creates an experience - that change means there are differences. I can tell you there are a great deal of changes occurring within child welfare, all of which I'm very proud of. That change creates angst among everyone because it means rethinking and redoing, but again, that's based on exactly what the staff have asked us to do.

There is an issue around the workload that keeps coming up. I'm not an expert in these types of things, but in fact, there is what is known as an expression of interest which, when there's a vacancy created, allows workers to move through the system very quickly. What this actually does is create quite a difficulty in managing those cases well. If workers don't stay in the position for very long, and they jump to another position, which they're allowed to do - it's one of their union rights to do it - it creates flux and flow in these relationships. That does create an imbalance for a lot of people because no case can go unassigned - it has to have a social worker attached.

All that is to say that this is a difficult job. There are changes, and we are trying our best. We have actually increased staff - not greatly because again, the numbers suggest that they should be able to manage it.

ROLLIE THOMPSON: Just one simple point, and I don't think there can be disagreement on this - the total budget has gone up 3 per cent over four years. That's way less than the rate of inflation, and that's not a significant infusion of new funds. You have moved some funds around, but that's about it.

THE CHAIR: Ms. Leblanc.

SUSAN LEBLANC: I just want to pick up on this a little bit more. Since the new Act was brought in, the amendments, we know we have a limited time for these situations

to get worked out. We know that we have basically a decrease in the budget because, as Mr. Thompson has just pointed out, the numbers speak for themselves. We know that Policy 75 counsellors, who are the third-party counsellors, who are offered to people in these situations when their children are taken into care - their rates have not risen in something like 15 to 19 years. They make \$85 an hour, and frankly, all or most of the counsellors aren't taking this work on because it's not financially viable for them.

So we have a time bomb here. We have limited time for these families. We have social workers who are saying that child welfare is over the brink of crisis. These are the front-line workers who are saying this. They have been saying it for many years, and they are organizing around this. The idea to suggest that maybe it's because their union rules are allowing them to shift jobs - let's pay them properly, value the work they're doing.

I hear you, I know that you were a child welfare social worker for many, many years, but the fact is that folks on the ground are saying it's not working. The Policy 75 people can't do the work anymore because they can't afford it. Who are the victims? The children and their families who are going to be taken away from each other, the children who are going to be placed in care, the families. We know how traumatic that is. We only need to listen to the CBC podcast going on right now about the 1960s scoop and how fundamentally traumatic and life-destroying those kind of situations can be.

I'm getting to a question. I'm shaking right now because I just can't - there's no way to reconcile what's happening in the room right now.

If as you say, Mr. Doiron, the goal of the department - and I want to believe you - is to maintain the integrity of the family, then how come social workers are saying that their work is on the brink, and how come the Policy 75 counsellors have been asking for raises for 15 years and can't get one? Also, to add to this, in focusing on the vulnerability of the family in these situations, in two years of asking, how come the department has not been able to figure out a way to allow the child benefit to come back to the family as soon as the children are back with them? That is a major, major problem right now.

LEONARD DOIRON: Thank you for those questions - where do I begin? You have asked a number, so I'll do my best.

First and foremost, in terms of services available to families, when we're before the courts, we are required to ensure those services take place. We do have a policy, it's called Policy 75. It allows us to hire and pay for independent services to be provided to the family. That's done immediately. Despite what you may say, in fact, we're required to provide the service, so we actually get those services to the families. That's a requirement on us. Every attempt is made to do that. To my knowledge, that's largely successful.

We do have some social workers who are part of the association who are claiming the situation is on the brink. We have 1,000 employees, and that's not exactly what we're

hearing at all. I do understand that the College of Social Work has initiated this on the basis of some of its members, but I don't think it's representative of all of that crew.

[11:30 a.m.]

That being said, I also want you to know about the rates for the counsellors. Those rates are like any other rates - they're set by their administrative bodies and yes, some psychiatrists or psychologists or social workers would say they're worth \$185 an hour and they want to be paid that \$185 an hour when they're driving their car three hours to Yarmouth and back, and they want to be able to do this and they want to be able to do that.

Well, as a matter of fact, we have priced out our assessments that they're required - we've raised all of those rates considerably. So anyone who is actually providing these services is getting paid what we would think very fair market value for those assessments. In addition to that, they're getting their hourly rate of \$85 per hour plus all of their expenses to do it.

To that point, absolutely fair, we have not raised their hourly rate, but we have raised all of the rates for the assessments so they can charge against it. That's all I can tell you in a nutshell around that.

ROLLIE THOMPSON: I was curious myself on the question about the Canada Child Benefit. It's a big issue so I just thought I'd raise that.

LEONARD DOIRON: Thank you for bringing that up. For the benefit of the people in the room, when a child comes into care, the Child Benefit transfers back to the minister versus the parent because the federal government decrees that they are not entitled to the money if they're not providing the care.

The government's position here in Nova Scotia - in the Department of Community Services in particular - is we do not want to destabilize that family in any way, shape or form. However, we're providing an infusion well beyond the Canada Child Benefit to the family to take care of that.

When the child goes back home, we notify the federal government that the child is now back with the parents - or the family can do that as well - and the federal government has to reinstate the family. We have worked really hard with the federal government to actually speed it up. To date, because of their own technicalities, we've had difficulty.

We are considering other options like supplementing the family or whatever may be required, but I can tell you, we've had numerous conversations with the federal government. It's not the province's position to affect their changes, but we're going to look at ways. If they cannot come up with a remedy that addresses that, then the province will step in and supplement them somehow.

ROLLIE THOMPSON: Just two quick questions. Did I understand you correctly, Leonard, to say that - just to clarify the question - does the Canada Child Benefit get paid to the department while the child is in care, the \$500-plus a month?

THE CHAIR: If we have any time at the end, we can clarify those questions. I'm going to move to Mr. Johns to ask his question, please and thank you.

BRAD JOHNS: Thank you both, gentlemen, for coming. It has been for me a very eye-opening session today. Professor Thomson, thank you sincerely for taking your time to come here today to talk to us. Some of the things that you've said to me that you've presented here today from my perspective is just wow. I'm seeing a totally different side of the coin than what I've been shown and I think that part of that is because - and where I want to direct my questions is in regard to the role that MLAs play and how the department can and does not assist MLAs in their job.

I view my job as an MLA as twofold. One is to help set legislation, and as a critic or as an Opposition Party, is to be critical of that legislation and ask questions. The second part of my job that I see is really to assist and advocate for residents with government. Because of that second part, I've obviously been approached by numerous people who have some issues with many departments, including yours.

My point being that I was approached a number of months ago by a family. It was a very significant case and at that time I went to the minister and I presented to her. I felt that even though I had all the appropriately signed documents and everything else, which should have been able to disclose any information in regard to that case, I felt that it was kind of whitewashed and shoved under the rug.

I want to make a note to something that Professor Thompson said, which I noted that he said numerous times he has had to FOIPOP to get information in order to be able to - you can't criticize because nobody will give you any information. On May 31st, I met with representatives at the department after contacting the EA for the minister - I did have a meeting with the department. I ended up doing that because under the auspices of trying to get an overview of child welfare programs, processes and all that, was how I got in the door because nobody wanted to meet with me to talk to me about this specific case.

After meeting with staff there as well as the minister's EA, Edgar Burns, I presented a file of all the information I had, recognizing the confidentiality of this particular case, but at the same time stressing the severity of this case. I requested numerous follow-ups, which I still have not to date received from anybody.

On another committee that I was sitting on that Child, Youth and Family Services presented, which was to the Human Resources Committee, I was actually able to pull aside - I think it was the deputy minister - to brief her on this case and ask for follow-up. I still have not had a follow-up.

As of now, I have a meeting established on Monday, September 9th - I believe it is - with CBC's Fifth Estate, which is now investigating this particular case, and I've been given nothing.

So I find it very frustrating. I feel that CFSA is hampering my ability to be able to do a job of advocating for my residents by stone-walling and blocking and not providing information, which if provided, I can then at least sit back and say, well, I think the department has done the job right. But being provided no information at all, I'm having a real strong tendency of believing and advocating for my resident because nobody is telling me anything different. Nobody is telling me they looked into it.

Can you please explain to me, as an MLA how I am supposed to get information to be able to do my job and advocate for my residents and at the same time, can you please explain to me what the process is for residents who feel that they've been wrongly dealt with to have a review done?

I was told that would be through the Ombudsman, but the Ombudsman was told it can't be dealt with as long as it's in the Department of Community Services hands. When it ceased to be a case in the Department of Community Services hands, the Ombudsman then said it's no longer a case that's under review so therefore we won't review that as well.

I need to know how I'm supposed to do my job, how I get my information and how things get reviewed if there is - obviously CBC and Fifth Estate feel that there are adequate concerns that they're reviewing this case now. So can you please tell me how to do that?

LEONARD DOIRON: Thank you for your questions - you asked a lot. So there is a complaint review process. By all means, if a client of the department - this is probably true for all program areas, I'm speaking specifically from a child welfare perspective - if a client has a disagreement, the first course of action is to have that discussion with their case worker. If they're not satisfied, they can ask to speak to the casework supervisor. If they're still not satisfied with that, they can actually ask for that to be reviewed. That will be reviewed.

We have time frames that review process takes place. The child welfare specialist or the director of that program will review. Then we can even go as far as to sit down with the particular client and explain the outcome of that review process. So there is a very specific review process

I'm somewhat confused around the - just so you know, the Ombudsman is an independent body. They have the authority to have what they call their own motion investigations into concerns. If they felt that they had a role to play, they can do it whether the case is open or closed. What they probably were inferring, and I do not want to presume any knowledge or understanding of those circumstances you spoke of, but as you were describing it, I thought perhaps what they were trying to say is that there is a process already

in place or available to you, so use that internal review process that I just shared with you before the Ombudsman will get involved. If after all of that process, the client was still not provided with any kind of understanding of why they weren't being satisfied in the way that they needed to be, they could go to the Ombudsman, I presume.

The other thing I wanted to say was that I and all of my colleagues have worked with all of the MLAs. You perform a very important role, and we support that role. We want to keep you as informed and provide you with as much information as possible. This sounds like a very unique set of circumstances to me. I don't understand it because I know that we will go to great lengths to allow you to provide that counsel to your residents just as you described. More often than not, all of you can actually - just by nature of the fact of the role that you play, when you understand something and you can convey it to them, your residents actually hear that a little better than if we say it because there's a trust issue. We do have some power and authority, and that makes them naturally distrustful of us and fearful of us in a particular way.

We love working through the MLAs. We absolutely love it. You can be some of our best champions and help our clients understand the laws and the policies and the practices. Most of you have been very, very helpful in that regard. I was actually a little bit confused by your circumstance, and I think it must be somewhat unique.

THE CHAIR: I want to move on, unless Professor Thompson has something to inject.

BRAD JOHNS: I have a follow-up question.

THE CHAIR: We bounced from Ms. Leblanc to you. We'll try to get another round in. We have 18 minutes here.

Mr. Maguire.

BRENDAN MAGUIRE: Where to start. I just want to sit here and ask a quick question. It's very frustrating to me because I have heard this conversation now for - I just turned 44. We'll say for 38 years, I have heard everybody say, what about the MLAs, what about their feelings? What about special interest groups? What about the academics? What about the parents? This is not academic, MLA, parent protective services. This is child protective services. What is being missed here around the temporary to permanent residency is the feeling of the child.

I'm someone who lived through it and has known hundreds of kids who are now adults that I still stay in contact with who volunteer for the last 25 years with HomeBridge Youth Society and Phoenix House. It doesn't matter if you're five years old, six years old, or twelve years old - you know the difference between temporary and permanent. To act like Community Services are just walking in and pulling children out of their homes is

extremely offensive for people who live through this. It takes years of counselling, of abuse, of BS that you go through in those homes before you're removed from your parents.

By the time you get to this 12-month thing that everyone's arguing about, as a child, you have probably already gone through four, five, or six years of these circumstances. Temporary care means five different elementary schools. It means not making friends because everywhere you go, you know you're going to move. It means not calling people parents because they know you're out the door. It means every day that goes by, there's no trust in the adults who are supposed to protect you, Community Services that are supposed to be there for you, and your own parents. Every day that goes by that you're away from your parents, there is a good reason why you're away.

[11:45 a.m.]

I've been through this for the last six years. I was on the Law Amendments Committee when this came forward. I've heard the arguments. I've heard the special interest groups and everybody complaining about this, but nobody seems to want to say, do you know what, this is good for the child. By the time we get to that 12-month cut off - and I'm sorry, Mr. Thompson, but you mentioned something about 12-year-old-kids. As a 12-year-old young kid going through puberty whose life is confusing as it is, having to explain to children why you're only going to be in that community for a month and then be moved again and moved again and moved again is a very difficult thing.

Do you know what's not a very difficult thing? Having a permanent residence where you can live - where you can set down and put your roots in the ground, where you can look around and start calling people brothers and sisters, mom and dad. I appreciate that you're probably much smarter than me and you've been studying this for a long time, but there is something to be said about personal experience and knowing hundreds of kids that have gone through this.

So my question to both of you is: What is a reasonable time limit to allow a child to stay in an abusive situation so that the parents can get their act together? What is a reasonable time to say to a young child or a teenager that you have to wait in limbo while the parents get their act together? Because every day, every week, every month that goes by, that is emotional and personal and sometimes physical scars that happen to those children.

I'm sorry, at 44 years old, I know a lot of adults that still haven't gotten over those emotional scars, that are pissed off as hell that the Department of Community Services didn't intervene quicker. So what is a reasonable amount of time? I'm not angry at you specifically. I'm just angry at the whole thing.

ROLLIE THOMPSON: You can be angry at me specifically. I've had a lot of people angry with me over the years.

Number one, the fact you're in permanent care does not stop the turnover in movement from one foster home to another. Less likely, but still frequent. A lot of my clients as parents had been through a number of those homes and were then in the system as well. Permanent care is no guarantee of stability - I just want to say that right off the bat. Adoption maybe, but permanent care is no guarantee.

The second thing - what is a reasonable time period? It's a function of two things, I will say very quickly. One, the age of the child does matter and that's the basis of most time limits across Canada. To reflect that, so that the older time limits that are up there on that slide reflect that view, which is as you get kids who are older, they actually do have a better ability to deal with some of those issues than obviously the younger child, the quicker the decision has to be. I'm with you on that.

Keep in mind, these are maximums. In individual cases, you can move very quickly. If you have a case where there has been, in fact, physical abuse or sexual abuse, a court can actually in six months' time order that child into permanent care. There is nothing to stop the court from doing that in appropriate cases. These are maximums. They tend to have their effect in cases of neglect, poverty, domestic violence - those kinds of cases where it's a constant battle as to whether the parents can get their act together in time.

The reason we have time limits is precisely what you said - and they are time limits that are practical and sensible - because you have to make a decision at some point as to whether the parents are going to be able to get that child returned or not. I'm a big fan of time limits, don't get me wrong. I'm just saying, pushing people into permanent care does not solve the problem of stability. Pushing people into permanent care as older kids does not solve the situation for every child. It solves the situation for some kids.

This legislation says we don't care, we're going to push all those kids into permanent care. That's the system we had. Contrary to what Leonard said, that's the system we had in the Children's Services Act when I started off, and in a lot of cases involving adolescents, those were unwise approaches - they weren't flexible enough. So we got flexibility to say we can have longer-term temporary care orders. We can make adjustments. We can keep the family involved. That was a practical set of answers in 1991. What we've done now is we've gone to what I think is an ideological fixed way of thinking. We won't agree on that one.

LEONARD DOIRON: You can't unknow what you know, so for me, once you know there is harm or the substantial risk of that harm, you can't undo that, so the clock starts ticking in terms of the time frame.

I also want to say that being in care is arduous on everyone. That's not an ideal. We want kids to be home safe and comfortable with their families or with people that they know, love, and trust, and who aren't going to hurt them. Unfortunately, the complexity around the needs of a child and the system in which they enter is never easy, and there are

far too many frequent moves, although we're making great strides in stabilizing that process too.

Like I mentioned earlier, we're designing placements for these children that meet their particular needs, and we're looking to actually stabilize those placements in a much better way. We're supporting the foster families that provide that level of care - better designed placement options, more support for the children, more support for the foster parents, more support for the workers who are supporting those groups. We hope to see a significant reduction in the different numerous things.

On the other hand, despite what Mr. Thompson alluded to before about those time limits imposed by the courts as being effectively managed in the past, on the contrary, those children and youth that were of that older variety actually were staying in limbo, just as Brendan alluded to. Those older children were left in limbo, and they have a right to permanency as much as anybody else does. In fact, at that very age, they're probably more confused than ever. They have a right to permanency. The whole point around permanency - keep in mind, we're still acting in the best interest of that child, and we're taking their wishes into account. They get to dictate a lot about what happens to them, particularly at that age. I just wanted to put that into perspective as well. That's my response, Mr. Maguire.

THE CHAIR: I invite our guests, in the interest of time crunch here, to please provide some closing statements in two minutes or less. Mr. Thompson.

ROLLIE THOMPSON: There's actually a last slide there, so you can look at that. Quick answers - what can you do? That's what I'm going to cover. Reducing child and family poverty is the number one way of improving the situation of families and children in Nova Scotia and having fewer children coming into care. You need adequate funding of child and family services. It's not just adequacy of funding. It's also the kinds of services made voluntarily available to families, in-home services, culturally appropriate services in particular for the Mi'kmaw community and the African Nova Scotian community. It's also the kinds of services you have available. I think the definitions in Section 22 need to be rewritten. They're badly drafted. They have all kinds of complications. They need to be redone. Time limits - we have said enough about those already. I won't go into that more.

One thing that has come clear in all this is the need for more openness and information about the system and how it operates, both its good points and its bad points. One of the problems is that there's lots of good work done that's also hidden behind closed doors. One of the difficulties is that unlike schools, unlike universities, unlike health care, unlike criminal justice, no one knows enough about this system and how it works and what it needs. I think more information would be a good thing.

The last point is a simple one, but children in care need an independent child and youth advocate. We're the one province - with the exception of Ontario, which reversed itself - without that kind of a person. It's very important to provide the information that

many of you are asking about here and to provide an avenue for MLAs to work with as well, unlike the current system. I'll stop there.

THE CHAIR: Mr. Doiron.

LEONARD DOIRON: Mr. Thompson and I agree on a whole lot of things on this slide. That's a scary thought sometimes, but it is a good thing. I absolutely support the reduced child and family poverty 100 per cent. I couldn't support more the need for adequate funding essentially for voluntary prevention and early intervention services. I couldn't support more the reduction in the workload - I'm going to differentiate here on the caseload number, but on the workload - and making that more social work oriented and less adversarial and litigious in the court system, which is exactly why the Act was changed the way it was.

I do not agree with Mr. Thompson with regard to the CFSA and the narrowing of the Act. In fact, I would say the revisions in the Act are doing exactly what we hoped they would along with the transformation initiatives that we have already put into place and that we do plan.

I would also say that in terms of creating an independent child and youth advocate, that has actually been something that is being fully considered by government. I can't speak to where that is going because I'm not a part of that process, but I know that that is under consideration. I also know that that has been supported by the work of the restorative inquiry, where we would have an arm's-length cross-government advocate that speaks to children and youth. I do want to point out, though, that currently, the child/youth Ombudsman is involved in any file it wishes to involve itself in now, and it has complete and unfettered access to all children in care.

THE CHAIR: Well done, folks. I'll just quickly jump in here. To our witnesses, thank you for being here today. You're welcome to depart at any point. In the interest of time, I'll get to the question at the end.

The next committee meeting date would be November 5th, provided the House is no longer in session, with representatives from the Departments of Communities, Culture and Heritage, and Community Services. The topic is poverty reduction grants. It's noted that upon research, the name should have been Building Vibrant Communities Grant, co-administered by both departments. Additionally - again provided the House is no longer in session - there will be an agenda-setting meeting that is also to take place on that date because we have one remaining topic on our to-do list. Mr. Johns.

BRAD JOHNS: Just a question on today's presenters. I did notice the teleprompters in the room for this meeting. I assume, therefore, that everything's being recorded. Is it possible to get a verbatim record of today's meeting?

THE CHAIR: That would be Hansard. Yes.

BRAD JOHNS: Okay, perfect. Thank you.

THE CHAIR: Any further business? Hearing none, we're adjourned. Thank you.

[The committee adjourned at 11:57 a.m.]