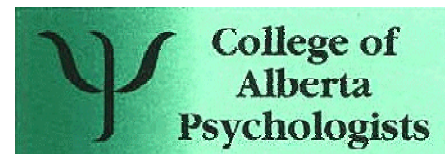


Professional Guidelines for Psychologists

Psychological Evaluations for Child Protection Decisions

Adopted by CAP April 2001



Guidelines for Psychological Evaluations for Child Protection Decisions¹

Preamble

When a child is at risk of harm, psychologists may become involved. Psychologists are in a position to make significant contributions to child welfare decisions. Psychological data and expertise may provide additional sources of information and a perspective not otherwise readily available to Child and Family Services* or the Court regarding the functioning of parties, and thus may increase the fairness of the determination by the Court, Child and Family Services or other party.

As the complexity of psychological practice increases and the reciprocal involvement between psychologists and the public broadens, the need for guidelines to educate the profession, the public and the other interested parties regarding desirable professional practice in child protection matters has expanded and will probably continue to expand in the foreseeable future. Although psychologists may assume various roles and responsibilities in such proceedings, the following guidelines were developed primarily for psychologists conducting psychological evaluations for child protection decisions.²

Parents³ enjoy important rights regarding the care for their children. A child has a fundamental interest in being protected from abuse and neglect. Child protection laws attempt to strike a balance between these interests. Although parents have the primary responsibility to protect their children from harm, the *Child, Youth and Family Enhancement Act* gives the Province the responsibility to intervene in cases where a child is at risk for harm because of the action or inaction of the parent(s).

Child and Family Services intervention typically involves the following key decisions:

- Does the child need protective services according to the definitions in the Child, Youth and Family Enhancement Act? See Appendix 1 for a copy of these definitions.
- If the child needs protective services, what services will ensure the child is safe and bring the parent(s) to the place where they can sufficiently protect the child without services?
- Does the child need to leave the home in order to be safe while services are provided?
- If the child needs to leave the home, does Child and Family Services need to assume guardianship to ensure the child is safe?
- What long-term plan will meet the child's need for permanence?
- If the child leaves the home, are the parent(s) willing and able to take advantage of services aimed at making the home safe enough for the child to return within a reasonable time?
- If the parent(s) are, or will be, unable or unwilling to protect the child within a reasonable time, does Child and Family Services need to assume permanent guardianship, terminating all of the parent(s)' guardianship responsibilities and rights?

¹ These Guidelines were adapted from the American Psychological Association's (APA) "Guidelines for Psychological Evaluations in Child Protection Matters". However, some modifications have been made to reflect requirements in Alberta and these modifications have not been endorsed by, and may not reflect the views of the APA.

*"Child and Family Services" refers to the system that delivers child protection services under the Alberta Child, Youth and Family Enhancement Act. It includes Child and Family Services Directors designated by the Child and Family Services Authorities and by the First Nations Child and Family Services agencies along with the Child and Family Services workers appointed by those directors.

² For example, the role of psychologists acting as psychotherapists, conducting individual or family psychotherapy, is very different from the role of psychologists conducting formal child protection evaluations (Greenberg and Schumann, 1997).

³ For the purposes of this document, the term "parent" refers to any guardian.

Some of these decisions may be made with the consent of the parent(s) and do not necessarily require Court hearings. However, if consent cannot be reached or if the decision includes Child and Family Services assuming guardianship, the Court must make the decision. Permanent guardianship typically requires not only a finding of abuse and/or neglect by the parent(s), but also a finding that diligent efforts to provide child protection services have failed or will not be successful within a reasonable time. Psychologists are aware that the most extreme disposition—a permanent guardianship order--has a finality requiring both a fair process and a higher standard of proof than may be required in other child protection matters.

The *Child, Youth and Family Enhancement Act* requires that diligent efforts must be made to develop the parent(s) ability to assume full responsibility for the child's protection and to maintain the child safely in the home or reunite the child with his/her parent(s). Typically, these efforts must be made and the parent(s) given every opportunity to succeed prior to a disposition of permanent guardianship. In conducting an evaluation, psychologists should be familiar with the requirements of the Child, Youth and Family Enhancement Act. See Appendix 2 for the Matters to be Considered according to the Child, Youth and Family Enhancement Act.

When Child and Family Services and/or the Court is making any of the above-mentioned decisions, psychologists may be asked to evaluate different parties for different purposes. Psychologists may act as agents of the Court or of Child and Family Services, or may be directly retained by the parent(s). Psychologists may also be retained by a guardian ad litem if one has been appointed to represent the child. As evaluators in child protection cases, psychologists are frequently asked to address such questions as:

1. How seriously has the child's psychological well-being been affected?
2. What therapeutic interventions would be recommended to assist the child?
3. Can the parent(s) be successfully treated to prevent harm to the child in the future? If so, how and can this be accomplished within a reasonable time from the child's timeline perspective? If not, why not?
4. What would be the psychological effect upon the child if returned to the parent(s)?
5. What would be the psychological effect upon the child of separation from the parents or of a permanent guardianship order?
6. What is the effect of another person who lives in the home on the parent(s)' ability to protect the child?
7. Is another parent/interested person able to assume responsibility for the child?

In the course of their evaluations, and depending upon the specific needs of a given case, psychologists may wish to evaluate the parent(s) and/or the child individually or together. Psychologists may wish to gather information on family history, assess relevant personality functioning, assess developmental needs of the child, explore the nature and quality of the parent-child relationship and assess evidence of trauma. Psychologists are encouraged to consider specific risk factors such as substance abuse or chemical dependency, domestic violence, financial circumstance, health status of family members and the entire family context. Psychologists may wish to review information from other sources including an assessment of cultural, educational, religious and community factors.

Particular competencies and knowledge are necessary when performing psychological evaluations for child protection decisions so that adequate and appropriate psychological services can be provided to the Court, Child and Family Services or other parties. For example, in cases involving physical disability, such as hearing impairments, orthopedic handicaps, etc., psychologists strive to seek consultation from experts in these areas.

Particular attention should also be given to other aspects of human diversity such as, but not limited to, ethnic minority status, sexual orientation and socioeconomic status.

Conducting psychological evaluations for child protection decisions can be a demanding and stressful task. The demand of such evaluations can become heightened because the issues involved may include child abuse, neglect and/or family violence. Psychologists are alert to these personal stressors, and when appropriate, undertake relevant study, training, supervision and/or consultation.

PART I ORIENTING GUIDELINES

1. The primary purpose of the evaluation is to provide relevant, professionally sound results or opinions, in matters where a child's health and welfare may have been and/or may in the future be harmed. The specific purposes of the evaluation will be determined by the nature of the child protection matter. In investigative proceedings, a primary purpose of the evaluation is to assist in determining whether the child's health and welfare may have been harmed or are at risk of being harmed. When the child is already identified as being at risk of harm, the evaluation often focuses on rehabilitation recommendations, designed to protect the child and help the family. An additional purpose of such an evaluation may be to make recommendations for interventions that promote the psychological and physical well-being of the child, and if appropriate, facilitate the reunification of the family. Psychologists appreciate the value of expediting family reunification when safe and appropriate. In permanent guardianship proceedings, the primary purpose of the evaluation is to assess not only abuse or neglect by the parent(s), but also whether rehabilitation efforts for and by the parent(s) have succeeded in creating a safe environment for the child's return or are likely to within a reasonable time.
2. In child protection cases, the child's interest and well-being are paramount. In these cases, Child and Family Services is intervening in the family based on the concern that the child's protection needs at that time are not being served by the family, resulting in the child's psychological or physical harm. Thus, the child's interest and well-being are paramount. In permanent guardianship proceedings, there is an additional focus: whether the parents have been successfully rehabilitated or can be within a reasonable time.
3. The evaluation addresses the particular psychological and developmental needs of the child and/or parent(s) that are relevant to child protection issues such as physical abuse, sexual abuse, neglect, and/or serious emotional harm. In considering psychological factors affecting the health and welfare of the child, psychologists may focus on parental capacities in conjunction with the psychological and developmental needs of the child. This may involve an assessment of:
 - (a) the adult's capacities for parenting, including those attributes, skills and abilities most relevant to abuse and/or neglect concerns;
 - (b) the psychological functioning and developmental needs of the child, particularly with regard to vulnerabilities and special needs of the child as well as the strength of the child's attachment to the parent(s) and the possible detrimental effects of separation from the parent(s);
 - (c) the current and potential functional abilities of the parent(s) to meet the needs of the child, including an evaluation of the relationship between the child and the parent(s);
 - (d) the need for and likelihood of success of clinical interventions for observed problems, which may include recommendations regarding treatment focus, frequency of sessions, specialized kinds of intervention, parent education and placement.

PART II

GENERAL GUIDELINES: PREPARING FOR A CHILD PROTECTION EVALUATION

4. The role of psychologists conducting evaluations is that of a professional expert who strives to maintain an unbiased, objective stance. In performing protection evaluations, psychologists do not act as judges, who make the ultimate decision by applying the law to all relevant evidence, or as advocating attorneys for any particular party. Whether retained by the Court, Child and Family Services, the parent(s) or the guardian ad litem for the child, psychologists should strive to be objective. Psychologists rely on scientifically and professionally derived knowledge when making judgements and describe fairly the bases for their testimonies and conclusions. If psychologists cannot accept this unbiased objective stance, they should consider withdrawing from the case. If not permitted to withdraw, psychologists disclose factors that may bias their findings and/or compromise their objectivity.
5. The serious consequences of psychological assessment for child protection decisions place a heavy burden on psychologists. Because psychologists' professional judgements have great potential to affect the lives of others, psychologists are alert to guard against factors that might lead to misuse of their findings. For example, during the early service-planning phase of a case or during a temporary guardianship hearing, psychologists' findings may be used to separate the child from her/his parent(s). In a permanent guardianship hearing, the psychologists' findings may be a factor in the decision to terminate the parent(s)' guardianship rights. The gravity and potential permanence of this consequence underscore the importance for psychologists to reasonably insure the objectivity of the assessment procedure and findings.
6. Psychologists gain specialized competence.
 - A. Psychologists who conduct evaluations for child protection decisions are aware that special competencies and knowledge may be necessary for the undertaking of such evaluations. Competence in performing psychological assessments of children, adults and families is necessary but not sufficient. Education, training, experience and/or supervision in the areas of forensic practice, child and family development, child and family psychopathology, the impact of separation on the child, the nature of various types of child abuse and the role of human differences⁴ may help to prepare psychologists to participate competently in psychological evaluations for child protection decisions.
 - B. Psychologists make reasonable effort to use current knowledge of scholarly and professional developments, consistent with generally accepted clinical and scientific practice, in selecting evaluation methods and procedures.
 - C. Psychologists also strive to become familiar with applicable legal and regulatory standards and procedures, including provincial laws governing child protection issues. These may include laws and regulations addressing child abuse, neglect and termination of guardianship rights.
7. Psychologists are aware of personal and societal biases and engage in nondiscriminatory practice. Psychologists engaging in psychological evaluations for child protection decisions are aware of how biases regarding age, gender, race, ethnicity, national origin, religion, sexual orientation, disability, language, culture and socioeconomic status may interfere with an objective evaluation and recommendations. Psychologists recognize and strive to overcome any such biases or withdraw from the evaluation. When interpreting evaluation results, psychologists strive to be aware that there are diverse cultural and community methods of child rearing, and consider these in the context of the existing provincial and Federal laws. Also, psychologists should use, whenever available, tests and norms based on populations similar to those evaluated.

⁴ "Human differences" refers to differences of age, gender, race, ethnicity, national origin, religion, sexual orientation, disability, language and/or socio-economic status.

8. Psychologists avoid multiple relationships. In conducting psychological evaluations for child protection decisions, psychologists are aware that there may be a need to avoid confusion about role boundaries. Psychologists generally do not conduct psychological evaluations for child protection decisions regarding matters in which they serve in a therapeutic role for the child or the immediate family or have had other involvement that may compromise their objectivity. This does not, however, preclude psychologists from testifying in cases as fact or expert witnesses concerning therapeutic treatment of the children, parents or families. In addition, during the course of a psychological evaluation for a child protection decision, psychologists do not accept any of the participants involved in the evaluation as therapy clients. Caution should be exercised in undertaking therapeutic contact with the child or involved participants following a child protection evaluation. If the matter is still before the courts, psychologists must remain aware that their therapeutic involvement may alter the objectivity of their opinion. However, if legal issues are resolved, then therapeutic contact is possible although psychologists may not later resume evaluative roles in the event that additional assessment becomes necessary. Psychologists asked to testify regarding a therapy client who is involved in a child protection case are aware of the limitations and possible biases inherent in such a role and the possible impact on ongoing therapeutic relationships. Although the Court may order psychologists to testify as fact or expert witnesses regarding information they became aware of in a professional relationship with a client, psychologists must appreciate the difference in roles and methods between being psychotherapists and being child protection evaluators.

PART III

PROCEDURAL GUIDELINES: CONDUCTING A PSYCHOLOGICAL EVALUATION FOR A CHILD PROTECTION DECISION

In child protection matters, there are many different situations representing a wide variety of legal and/or ethical considerations. The appropriate procedure in one case may not be appropriate in another. Psychologists should be alert to applicable laws which govern the evaluation, as well as applicable sections of the Canadian Code of Ethics for Psychologists and the CAP Standards of Practice, particularly those sections dealing with confidentiality. In addition, psychologists appreciate the need for timeliness in child protection matters (e.g., response to evaluation referral, scheduling appointments, completion of report).

9. Based on the nature of the referral questions, the scope of the evaluation is determined by the evaluator. The scope of the protection-related evaluation is determined by the nature of the questions or issues raised by Child and Family Services, the Court or other referring person, or that are inherent in the situation. In child protection matters, psychologists are frequently asked to address parenting deficits. Consequently, psychologists are often asked to propose a treatment plan for the parent(s) or to discuss why prior treatment attempts have failed. The scope and methods of the assessment should be based upon consideration of the referral questions and the appropriate methods by which to evaluate them. Sometimes the evaluation is limited to one parent without attempting to compare the parents. Likewise, the scope may be limited to evaluating the child. At other times, psychologists may be asked to critique the assumptions and methodology of another mental health professional's assessment. Psychologists may also identify relevant issues not anticipated in the referral questions that could enlarge the scope of the evaluation. Also, psychologists might serve as pure expert witnesses in such areas as child development or social psychology, providing expertise to the Court without relating it specifically to the parties involved in a particular case.
10. Psychologists performing psychological evaluations for child protection decisions obtain appropriate informed consent from all adult participants, and as appropriate, inform the child participant. Psychologists need to be particularly sensitive to informed consent issues. Psychological evaluations for child protection decisions are often performed at the request of Child and Family Services, by order of a Court or at the request of another individual, such as an attorney. Due to the nature of child protection matters, the complexity of the legal issues involved and the potential serious consequences of the evaluation, psychologists need to be particularly sensitive to informed consent issues. Efforts toward obtaining informed consent

should make clear to the participant the nature of the evaluation, its purpose, to whom the results will be provided and the role of the psychologist in relation to the referring party (see CAP Standards of Practice section 20 re: third party request for services). This information should be provided in language understandable to the recipient. Because participants in this type of evaluation may feel compelled to cooperate, psychologists should attempt to obtain confirmation of the participants' understanding of and agreement to the evaluation, including its purposes and its implications, prior to the initiation of the evaluation. The Canadian Code of Ethics for Psychologists requires appropriate informed consent. Should there be refusal to give consent, it may be advisable to refer the individual back to his/her own attorney or seek the guidance of the Court or Child and Family Services before proceeding. The purpose of the evaluation, the results and where and to whom the results are distributed are all determined by the individual characteristics of the case as well as by legal requirements and Child and Family Services procedures. The Canadian Code of Ethics for Psychologists suggests that psychologists provide information to the child as appropriate, to the extent that the child is able to understand. Psychologists explain to the child the nature of the evaluation procedures. Psychologists attempt to make it clear to the child that his/her safety is the primary interest and because of that interest, the information will be shared with others. Psychologists allow time for questions by the child and answer them in a developmentally and culturally appropriate fashion.

11. Psychologists inform participants about the disclosure of information and the limits of confidentiality. Psychologists conducting a psychological evaluation for child protection decisions ensure that the participants, including the child (to the extent feasible), are aware of the limits of confidentiality for the evaluation results. Psychologists recognize that evaluation results could be sought by Child and Family Services, the Court, a guardian ad litem for the child or an attorney for either parent. When an evaluation is Court-ordered, there may be special considerations regarding the limits of confidentiality and the disclosure of information. A clear explanation of the nature of the evaluation and to whom it will be released takes place.
12. Psychologists use multiple methods of data gathering. Psychologists strive to use the most appropriate methods available for addressing the questions raised in a specific child protection evaluation. Psychologists generally use multiple methods of data gathering, including but not limited to, clinical interviews, observation and/or psychological testing that are sufficient to provide appropriate substantiation for their findings. Psychologists may review relevant reports (e.g. from Child and Family Services, protective service providers, law enforcement agencies, health care providers, child care providers, schools and institutions). In evaluating parental capacity to care for a particular child or the child-parent interaction, psychologists make efforts to observe the child together with the parent and recognize the value of these observations occurring in natural settings. This may not always be possible, for example, in cases where the safety of the child is in jeopardy or parental contact with the child has been prohibited by the Court. Psychologists may also attempt to interview extended family members and other individuals when appropriate (e.g., caretakers, grandparents and teachers). If information gathered from a third party is used as a basis for conclusions, psychologists attempt to corroborate it from at least one other source wherever possible. The corroboration should be documented in the report.
13. Psychologists neither over-interpret nor inappropriately interpret clinical or assessment data. Psychologists refrain from drawing conclusions not adequately supported by the data. Psychologists interpret any data from interviews or tests cautiously and conservatively, strive to be knowledgeable about cultural norms and present findings in a form understandable to the recipient. Psychologists strive to acknowledge to the Court any limitations in methods or data used. In addition, psychologists are aware that in compelled evaluations the situation may lend itself to defensiveness by the participant, given the potentially serious consequences of an adverse finding. Consequently, the situational determinants should be borne in mind when interpreting test findings.
14. Psychologists conducting a psychological evaluation for a child protection decision provide an opinion regarding the psychological functioning of an individual only after conducting an evaluation of the individual adequate to support their statements or conclusions. This

guideline does not preclude psychologists from reporting what an individual has stated or from addressing theoretical issues or hypothetical questions, so long as any limitations of the basis of such information are noted. When, despite reasonable effort, a personal evaluation of an individual is not feasible, psychologists report this and appropriately limit the nature and extent of their conclusions or recommendations.

15. Recommendations, if offered, are based on whether the child's health and welfare have been and/or may be seriously harmed. When conducting a psychological evaluation for child protection decisions, psychologists may choose to make a variety of recommendations, including but not limited to, psychological treatment for the child, psychological treatment for the parent(s), and/or suggestions for other services that would help create a safe environment for the child. If recommendations are made, the primary focus must be the child's health and welfare. Recommendations are based on sound psychological data, such as clinical data, interpretations and inferences founded on generally accepted psychological theory and practice. Particular attention may be given to outcome research on interventions with abusive families. Psychologists strive to disclose relevant information and clinical data pertaining to the issues being evaluated while maintaining an awareness of the limitations in predicting future violent behavior. They also explain the reasoning behind their conclusions. The profession has not reached consensus about whether making dispositional recommendations for child protection Court decisions is within the purview of psychological practice. However, if psychologists choose to make dispositional recommendations, the recommendations should be derived from sound psychological data and must be based on considerations of the child's health and welfare in the particular case.
16. Psychologists clarify financial arrangements. Financial arrangements are clarified and agreed upon prior to conducting a child protection evaluation. When billing for an evaluation, psychologists accurately describe the services provided for reimbursement purposes.
17. Psychologists maintain appropriate records. All data obtained in the process of conducting a child protection evaluation are properly maintained and stored in accordance with the CAP Standards of Practice. All records, including raw data and interview information, are recorded with the understanding that they may be reviewed by other psychologists, the Court or the client.

PART IV GLOSSARY OF TERMS

The following definitions are written generally and are intended solely to familiarize readers to some common terms used in child protection matters. These are not to be construed as uniformly accepted legal definitions or applied in specific legal matters.⁵

Abuse/Neglect: See Appendix 1 for the definitions of a child in needs of protective services according to the Alberta Child, Youth and Family Enhancement Act.

Burden of proof: an obligation by a party (e.g., plaintiff in civil cases, the state in a termination of parental rights matter) to demonstrate to the Court that the weight of the evidence in a legal action favors his/her side, position or argument.

What is the effect of another person who lives in the home on the parent(s)' ability to protect the child?

Beyond a reasonable doubt: highest standard of proof used in cases where the loss of liberty interests are at stake (e.g. incarceration). Generally defined as the highest degree of support or level of certainty (90-95% chance).

Child Protection Services: the range of statutory services provided under the mandate of the *Child, Youth and Family Enhancement Act* to a child (and her/his family) who needs protective services according to the definitions in the Act. These services include receiving reports, investigating, providing interventions to protect children and support families to resume responsibility for protecting, out-of-home care, and guardianship services to children in Child and Family Services' care.

Child and Family Services: the system that delivers child protection services under the Alberta Child, Youth and Family Enhancement Act. It includes Child and Family Services Directors designated by the Child and Family Services Authorities and by the First Nations Child and Family Services agencies along with the Child and Family Services workers appointed by those directors.

Evidence: any form of proof presented by a party for the purpose of supporting its factual allegation or arguments before the Court.

Expert witness: an individual who by reason of education or specialized experience possesses superior knowledge respecting a subject about which persons having no particular training are incapable of forming an accurate opinion or deducing correct conclusions. A witness who has been qualified as an expert will be allowed (through his/ her answers to questions posted) to assist the Court in understanding complicated and technical subjects not within the understanding of the average lay person. Experts are also allowed to provide testimony based on "hypothetical" scenarios or information/opinions that are not specifically related to the parties in particular legal action.

Fact witness: generally defined as an individual who by being present, personally sees or perceives a thing; a beholder, spectator or eyewitness. One who testifies to what he/she has seen, heard, or otherwise observed regarding a circumstance, event or occurrence as it actually took place; a physical object or appearance, as it usually exists or existed. Fact witnesses are generally not allowed to offer opinion, address issues that they do not have personal knowledge of or respond to hypothetical situations.

Family/Youth court: courts specifically established to hear cases concerning minors and related domestic matters such as child abuse, neglect, permanent guardianship, offenses by young persons, and protection against family violence.

⁵ Many definitions contained in the glossary have been taken from: The National Center on Child Abuse and Neglect (1995). Working with Courts in Child Protection. U.S. Dept. of Health and Human Services.

Family preservation/reunification: the philosophical belief of social service agencies, established in law and policy, that children and families should be maintained together if the safety of the children can be ensured.

Guardian ad litem: generally defined as an adult appointed by the Court to represent and make decisions for someone (such as a minor) legally incapable of doing so on his/her own in a civil legal proceeding. The guardian ad litem can be any adult with a demonstrated interest.

Guardianship: legal right given to a person to be responsible for the necessities (e.g., food, shelter, health care) of another person legally deemed incapable of providing these necessities for him/herself.

Out-of-home care: child care, foster care, group care or residential care provided by persons, organizations, and institutions to children who are placed outside of their families, usually in the custody of Child and Family Services.

Balance of probability: lowest of the standards of proof, and applied in most civil actions; generally defined as "probable" degree of certainty (e.g., "more likely than not" or 51% chance).

Restraining order: may be ordered by the judge to restrain or control the conduct of the alleged maltreating adult or any other person who might harm the child or interfere with the order.

Review hearing: held by the Family Court on application by Child and Family Services, to review an existing order and determine whether to extend, vary, replace or terminate that order.

Permanent guardianship hearing: formal judicial proceeding where the parent(s) guardianship rights and responsibility for a child are permanently or indefinitely severed and no longer legally recognized and where Child and Family Services assumes sole guardianship and full responsibility for the care and welfare of the child.

APPENDIX I

**DEFINITION OF A CHILD IN NEED OF PROTECTION
FROM SECTION I OF THE CHILD, YOUTH AND FAMILY ENHANCEMENT ACT**

(2) For the purposes of this Act, a child is in need of intervention if there are reasonable and probable grounds to believe that the survival, security or development of the child is endangered because of any of the following:

- (a) the child has been abandoned or lost;
- (b) the guardian of the child is dead and the child has no other guardian;
- (c) the child is neglected by the guardian;
- (d) the child has been or there is substantial risk that the child will be physically injured or sexually abused by the guardian of the child;
- (e) the guardian of the child is unable or unwilling to protect the child from physical injury or sexual abuse;
- (f) the child has been emotionally injured by the guardian of the child;
- (g) the guardian of the child is unable or unwilling to protect the child from emotional injury;
- (h) the guardian of the child has subjected the child to or is unable or unwilling to protect the child from cruel and unusual treatment or punishment.
- (i) repealed 2003 c16 s3.

(2.1) For the purposes of subsection (2)(c), a child is neglected if the guardian

- (a) is unable or unwilling to provide the child with the necessities of life,
- (b) is unable or unwilling to obtain for the child, or to permit the child to receive, essential medical, surgical or other remedial treatment that is necessary for the health or well-being of the child, or
- (c) is unable or unwilling to provide the child with adequate care or supervision.

(3) For the purposes of this Act,

- (a) a child is emotionally injured
 - (i) if there is impairment of the child's mental or emotional functioning or development, and
 - (ii) if there are reasonable and probable grounds to believe that the emotional injury is the result of
 - (A) rejection,
 - (A.1) emotional, social, cognitive or physiological neglect,
 - (B) deprivation of affection or cognitive stimulation,

- (C) exposure to domestic violence or severe domestic disharmony,
 - (D) inappropriate criticism, threats, humiliation, accusations or expectations of or toward the child,
 - (E) the mental or emotional condition of the guardian of the child or of anyone living in the same residence as the child;
 - (F) chronic alcohol or drug abuse by the guardian or by anyone living in the same residence as the child;
- (b) a child is physically injured if there is substantial and observable injury to any part of the child's body as a result of the non-accidental application of force or an agent to the child's body that is evidenced by a laceration, a contusion, an abrasion, a scar, a fracture or other bony injury, a dislocation, a sprain, hemorrhaging, the rupture of viscus, a burn, a scald, frostbite, the loss or alteration of consciousness or physiological functioning or the loss of hair or teeth;
- (c) a child is sexually abused if the child is inappropriately exposed or subjected to sexual contact, activity or behaviour including prostitution related activities.

APPENDIX II

**MATTERS TO BE CONSIDERED SECTION 2 OF THE CHILD, YOUTH AND FAMILY
ENHANCEMENT ACT**

2 If a child is in need of intervention, a Court, an Appeal Panel and all persons who exercise any authority or make any decision under this Act relating to the child must do so in the best interests of the child and must consider the following as well as any other relevant matter:

- (a) the family is the basic unit of society and its well-being should be supported and preserved;
- (b) the importance of stable, permanent and nurturing relationships for the child;
- (c) the intervention services needed by the child should be provided in a manner that ensures the least disruption to the child;
- (d) a child who is capable of forming an opinion is entitled to an opportunity to express that opinion on matters affecting the child, and the child's opinion should be considered by those making decisions that affect the child;
- (e) the family is responsible for the care, supervision and maintenance of its children and every child should have an opportunity to be a wanted and valued member of a family, and to that end
 - (i) if intervention services are necessary to assist the child's family in providing for the care of a child, those services should be provided to the family, insofar as it is reasonably practicable, in a manner that supports the family unit and prevents the need to remove the child from the family, and
 - (ii) a child should be removed from the child's family only when other less disruptive measures are not sufficient to protect the survival, security or development of the child;
- (f) subject to clauses (e) and (g), if a child has been exposed to domestic violence within the child's family, intervention services should be provided to the family in a manner that supports the abused family members and prevents the need to remove the child from the custody of an abused family member;
- (g) any decision concerning the removal of a child from the child's family should take into account the risk to the child if the child remains with the family, is removed from the family or is returned to the family;
- (h) if it is not inconsistent with protecting the survival, security or development of a child who is in need of intervention, and appropriate community services are available, the child or the child's family should be referred to the community for services to support and preserve the family and to prevent the need for any other intervention under this Act;
 - (i) any decision concerning the placement of a child outside the child's family should take into account

- (i) the benefits to the child of a placement within the child's extended family;
 - (ii) the benefits to the child of a placement within or as close as possible to the child's home community,
 - (iii) the benefits to the child of a placement that respects the child's familial, cultural, social and religious heritage,
 - (iv) the benefits to the child of stability and continuity of care and relationships,
 - (v) the mental, emotional and physical needs of the child and the child's mental, emotional and physical stage of development, and
 - (vi) whether the proposed placement is suitable for the child;
- (j) the provision of intervention services is intended to remedy or alleviate the condition that caused the child to be in need of intervention;
 - (k) intervention services are most effective when they are provided through a collaborative and multi-disciplinary approach;
 - (l) if a child is being provided with care under this Act, the child should be provided with a level of care that is adequate to meet the needs of the child and consistent with community standards and available resources;
 - (m) if a child is being provided with care under this Act, a plan for the care of that child should be developed that
 - (i) addresses the child's need for stability, permanence and continuity of care and relationships, and
 - (ii) in the case of a youth, addresses the youth's need for preparation for the transition to independence and adulthood;
 - (n) a person who assumes responsibility for the care of a child under this Act should endeavour to make the child aware of the child's familial, cultural, social and religious heritage;
 - (o) there should be no unreasonable delay in making or implementing a decision affecting a child;
 - (p) if the child is an aboriginal child, the uniqueness of aboriginal culture, heritage, spirituality and traditions should be respected and consideration should be given to the importance of preserving the child's cultural identity.