



Second Session, 38th Parliament

REPORT OF PROCEEDINGS
(HANSARD)

SELECT STANDING COMMITTEE ON
CHILDREN AND YOUTH

Victoria

Wednesday, July 5, 2006

Issue No. 1

GORDON HOGG, MLA, CHAIR

ISSN 1911-1932

**SELECT STANDING COMMITTEE ON
CHILDREN AND YOUTH**

Victoria
Wednesday, July 5, 2006

- Chair:* * Gordon Hogg (Surrey-White Rock L)
- Deputy Chair:* * Leonard Krog (Nanaimo NDP)
- Members:*
- * Iain Black (Port Moody-Westwood L)
 - * Kevin Krueger (Kamloops-North Thompson L)
 - Dennis MacKay (Bulkley Valley-Stikine L)
 - * Mary Polak (Langley L)
 - * Katherine Whittred (North Vancouver-Lonsdale L)
 - Raj Chouhan (Burnaby-Edmonds NDP)
 - * Adrian Dix (Vancouver-Kingsway NDP)
 - * Diane Thorne (Coquitlam-Maillardville NDP)

**denotes member present*

Other MLAs: Maurine Karagianis (Esquimalt-Metchosin NDP)

Clerk: Craig James

Committee Staff: Wynne MacAlpine (Committee Research Analyst)

Witnesses: Maureen Nicholls

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MINUTES

SELECT STANDING COMMITTEE ON CHILDREN AND YOUTH



Wednesday, July 5, 2006
10 a.m.
Douglas Fir Committee Room
Parliament Buildings, Victoria

Present: Gordon Hogg, MLA (Chair); Leonard Krog, MLA (Deputy Chair); Iain Black, MLA; Adrian Dix, MLA; Kevin Krueger, MLA; Mary Polak, MLA; Diane Thorne, MLA; Katherine Whittred, MLA

Unavoidably Absent: Raj Chouhan, MLA; Dennis MacKay, MLA

Others Present: Wynne MacAlpine, Committee Research Analyst; Maurine Karagianis, MLA

1. **Resolved**, that Gordon Hogg, MLA be elected Chair of the Select Standing Committee on Children and Youth
2. **Resolved**, that Leonard Krog, MLA be elected Deputy Chair of the Select Standing Committee on Children and Youth
3. The Chair made a few opening remarks.
4. The following witness appeared before the Committee and answered questions:

Maureen Nicholls
Former Executive Director of the B.C. Children and Youth Review
5. The Committee adjourned to the call of the Chair at 11:55 a.m.

Gordon Hogg, MLA
Chair

Craig James
Clerk Assistant and
Clerk of Committees

WEDNESDAY, JULY 5, 2006

The committee met at 10:07 a.m.

Election of Chair and Deputy Chair

C. James (Clerk Assistant and Clerk of Committees): If I could have your attention, please. This being the first meeting of the Select Standing Committee on Children and Youth and there not being a Chairperson for the current session, I call for nominations for the Chair.

A. Dix: I nominate Gordon Hogg.

C. James (Clerk of Committees): Any further nominations? Any further nominations? Any further nominations?

There being no further nominations, I presume you accept the nomination.

Interjection.

C. James (Clerk of Committees): That being the case, I call the question.

Motion approved.

[G. Hogg in the chair.]

G. Hogg (Chair): Thank you.
Can I have any nominations for a Deputy Chair.

A. Dix: I nominate Leonard Krog.

G. Hogg (Chair): Any further nominations?

Motion approved.

G. Hogg (Chair): Congratulations, Leonard. Do you have anything you'd like to say, as your acceptance speech?

L. Krog (Deputy Chair): Well, only out of respect for the Chair, I'm going to stand, rise and stick your name up in front of you, so we'll all know who you are.

G. Hogg (Chair): Thank you very much.

We have, as I'm sure you're all aware, our responsibilities coming out of the report and the recommendation that the Legislature strike a new Standing Committee on Children and Youth and that the representative and deputy representatives report to this committee at least annually. The reason provided in the report for that was that this all-party committee will contribute to a greater understanding among legislators and the public of the province's child welfare system and will encourage government and the opposition to work together to address the challenges facing the system.

I understand it'll be some time yet prior to us being able to hire a representative.

Adrian, can you speak to the status of that at this point?

A. Dix: Well, certainly we're hoping to hire one as soon as possible.

G. Hogg (Chair): Thank you — very tactfully worded.

We hope to utilize the time prior to the hiring of a representative to work at addressing the challenges facing the system as laid out. In order to address those challenges, we have to have a better understanding of what those challenges might be. Towards that end, I have invited Maureen Nicholls, who is the executive director of the B.C. Child and Youth Review, to come to speak to us with respect to the report and the recommendations contained therein.

Welcome, Maureen, and thank you very much for taking the time to join us.

[1010]

Presentations

M. Nicholls: Well, I'm delighted to be here, and I thank you all for the invitation to come.

The Hon. G. Hogg, Mr. Chair, had asked me to provide you with an overview of the report itself, the Ted Hughes report, which contains over 60 recommendations. I don't propose, at this point in time, to review all of those recommendations, but I would like to give you some sense of the background that led to the review itself: the terms of reference of the review; how we conducted it; and the key recommendations that we made, one of which certainly was the establishment of this all-party committee to oversee the functioning of the new child and youth representative office.

I don't know how you want me to approach this, Mr. Chair, in terms of questions. What I was proposing to do was give you the overview of the lead-up to the review itself and then, as I deal with each recommendation, if I could stop after that and invite questions.

If I'm not clear please pause for requests for clarifications. I'm happy to make it as fulsome as you want. Maybe you can also give me an idea of how much time you've allocated for this.

G. Hogg (Chair): We are scheduled to meet till 12 o'clock. If we adjourn prior to that, that is, I'm sure, to the joy of some members of the committee, if not all members. We want to be able to have a fulsome discussion and understanding and do that as efficiently as we possibly can.

M. Nicholls: Okay. Great. Maybe I should just start by giving you a little bit of background about myself in terms of my role as the executive director. Some of you are familiar faces to me, and others are new faces to me.

I'm a longtime senior public servant with the province of B.C. My most recent function was as chair of the Workers Compensation Board, which I did for about three years. Prior to that I was the chief commissioner of the appeals tribunal for workers compensation claims. Previous to that I'd held positions of deputy minister within the provincial government.

I was retired, actually, when the request was made to be a participant of the six-member panel that the

government originally had proposed to establish to look at children and youth. Without going into a lot of detail, of which many of you probably know, that was changed to a single-member panel that Hon. Judge Ted Hughes headed up. I was asked at that time if I would perform the function of the executive director, which is in essence the management of the project itself on a day-to-day basis.

We were appointed, I think, around the 24th of November of last year, and I quickly went about setting up the office and recruiting staff. We had a very small staff which included four individuals: two administrative and two other. We had about seven contractors that were on staff to do specific subject matter activities for the most part, along with a writer and an individual for communications purposes. So it was a tiny group.

We immediately set to work in advertising for requests for public submissions in a variety of newspapers. That occurred through November, December and into about mid- to late January, and we received submissions. In total we received almost 300 written submissions. In addition, we interviewed close to 80 people.

You can imagine that in the context of that tight time frame of four and a half months, it was fairly busy. I sort of thought I was going to be this one panel member that could say: "Yes, I like this. No, I like that." It became a very different process than I had initially envisioned I was going to be involved in.

Having said that, it was clear that there was a great deal of interest in the issues and a great deal of desire for input through that process. I think Mr. Hughes was very heartened in terms of the degree and level of participation and the substance that those individuals put forward to him.

[1015]

The terms of reference of the review itself were fairly succinct and yet fairly broad at the same time. It was to conduct an independent review and make recommendations to improve monitoring and publicly reporting on government's performance with respect to protecting and providing services to children and youth in B.C. It was with respect to advocacy for children and youth. It was to look at the system of child deaths and how the reviews are done, how they were internally and externally addressed, and publicly reporting on child deaths themselves to ensure that there was a balance between the needs for privacy for the individual and the family and the interests of public accountability.

In conducting this review, we were asked to look particularly at public agencies that were involved in the child welfare system. That included the Ombudsman's office, the public guardian and trustee, the coroner's office, the Ministry of Children and Family Development and the child and youth officer.

I've explained to you the approach that we took to undertake this review. Before I get to the recommendations we made.... I think what came out of the review in a very clear way for Mr. Hughes were two overriding themes that are central to the recommendations. One was the clear lack of stability and senior leadership within the Ministry of Children and Family De-

velopment. We make reference in the report to that ministry having, over the past ten years, over nine ministers and eight deputy ministers to guide it, and some seven individuals who were responsible for child protection issues.

In the context of the environment that we found ourselves in at this time, which was November of 2005, there were also some other significant factors that had to be taken into consideration when we looked at the issues. I'll talk a little more about those later.

The other issue we identified as an overriding theme was the need to depoliticize the child welfare system. I don't think it's to anybody's surprise that regardless of the party in power, the child welfare system is often seen as a front-page news item. While that may be of necessity, depending on the subjects at issue, that prolonged, persistent attention in the front pages of the paper does nothing to benefit the system in the long run. It may highlight critical issues that need to be addressed at a moment, but for the long term what it ends up doing is destabilizing the system.

I think the Gove inquiry was a very good example of that. It was an 18-month inquiry, where attention to child death was front and centre almost every day on the front pages of the paper. During that time the numbers of children that were apprehended and removed from their homes into foster care or other in-care options grew.

That's just a factor of social workers becoming fearful, fearful that their name is going to be the next one attached to the problem that's on the front page of the paper. To minimize risk of harm to children, it's much easier to remove them. That's the immediate answer, but the long-term answer isn't as easy, because once you remove the child from the family, we all know that they don't do particularly well in the public system. So it's not to the benefit of the system itself to have ongoing politicization of the issues.

This committee is seen as one way to address those issues in a more effective, early, upfront way than having to raise it as a major problem at a time when the system itself was at the point of chaos, I would say, at that particular time.

Just to give you some background in terms of the circumstances that we found in commencing our review. I'll just go back to talk a little bit about the Gove inquiry of 1994. At that time Judge Tom Gove was appointed to inquire into the death of Matthew Vaudreuil, who had been killed by his mother. Both the child and his mother had been clients of the child welfare system.

[1020]

The inquiry, as I said earlier, took 18 months to complete and resulted in over 120 recommendations for changes to the child welfare system. In 1995 the government of the day adopted the Gove report and set about implementing the recommendations.

The recommendations were very wide-ranging in nature, but for the purposes of Mr Hughes's consideration, the two most significant changes were the creation of a new Ministry of Children and Family Development, which was to integrate child and family programs and services from the former ministries of

Health, Education, the Ministry of Attorney General and the former Ministry of Social Services into one umbrella ministry. That was a fair bit of reorganization in pulling that ministry together.

The other recommendation was the creation of a children's commission. That commission was established to review all child deaths and to oversee the activities of this new integrated ministry. With respect to child death reviews, the Children's Commission opened its door and took on its responsibilities in early 1997. It took on the job of reviewing, in one way or another, all child deaths in the province.

Now, that wasn't the recommendation of Judge Gove. Judge Gove had recommended reviewing the deaths of children who were in care or known to the ministry. It was as a result of the transition commissioner's review of the issue that a recommendation was made to look at all child deaths. As a result, the commission produced reports and recommendations respecting all of these child deaths. I think they produced over 800 recommendations in the course of their five years of life, most related to changes to the Ministry of Children and Family Development.

In 2001 the new Liberal government undertook a core review of most of the programs and services in government, and that included the child welfare system. The review looked at those public agencies that had some role to play with respect to child welfare, including the Children's Commission, the child and youth advocate, Coroners Service, the Ombudsman, and the public guardian and trustee.

It concluded, and government agreed, that there were overlaps and duplications of services amongst these organizations. The plan was then that the coroner's office would assume a child death review function that it had not had before but which would be more limited than that which was carried out by the Children's Commission.

The Ombudsman would continue to monitor fairness issues, and a new child and youth officer would be established, reporting to the Attorney General. It would replace both the Children's Commission and the child advocate function. The focus of the child and youth office was to be on working in a collaborative way with the child welfare system to bring about positive changes to the system.

During this same period that core services reviews were being undertaken, budgets were being cut across government, and the child welfare system was no exception to that. Child protection services were significantly affected, and at the same time, the ministry was in the process of transferring responsibility for quality assurance, audit, practice reviews — including the reviews of child deaths and critical injuries — to the five regions in the province.

There was significant reorganization underway. The community living authority, an independent body responsible for services and support to children and adults with disabilities, was created. There were major program shifts, including a shift away from in-care placement to out-of-care options, under the rubric of service transformation.

Those were rolled out to the regions at a time when, as I described previously, there was an upheaval in

senior leadership, and there were these budget issues and the reorganization issues, so the combination of the three created a bit of chaos in terms of transferring responsibilities out to the regions.

Over a period a time there were frustrations expressed by members of the public — that they were unable to communicate with government about the impact of the budget cuts on children. They sought out three individuals who they thought might assist them in that regard. These were three individuals that had had a role to play in the past in the child welfare system. These were Dulcie McCallum, the former Ombudsman; Cindy Morton, the former and first children's commissioner; and Joyce Preston, who was the child and youth advocate.

They wrote a letter to the Premier in March of 2004 outlining their concern that there was a lack of public accountability and that they had concerns about the care and services that were being offered or denied children in the province. There's some question as to whether the Premier actually received the letter. In any event, there was no reply to it, and so in March of 2005 the three decided to release the letter publicly. A short time later there was criticism levied at the Ministry of Children and Family Development respecting the internal child death review process.

[1025]

It was discovered at that time that as a result of transferring the child death review function to the regions, some of the regions had not embraced that responsibility in the way they should have and some reviews had not been conducted as they should have been. Then it became public knowledge that the second-stage level of review, which was intended for the coroner's service to conduct, had not been undertaken. As a result of that and the media attention on those issues, government decided to establish the review that Mr. Hughes agreed to set up.

I'll just stop there and ask if there are any questions before I go into the recommendations.

G. Hogg (Chair): Are there any questions with respect to the comments made thus far?

M. Polak: You made what I thought was an interesting comment around the Gove inquiry — the effect of the media attention that surrounded that. I wondered if that's an isolated kind of circumstance whereby you see a bump-up in children taken into care during a time like that. Has that happened elsewhere? Is there any research on the role of the media in that?

M. Nicholls: I don't think it's unusual. I don't know if there's particular research on it, but I think in consulting with other jurisdictions, other provinces, they find similar responses when there is a heightened awareness in the media, and it's particularly on a child's death.

That's not to diminish.... I'm not arguing that there shouldn't be any attention given to that. That would be ridiculous. But it's this heightened, prolonged attention that often results in social workers being concerned, and simply, the easier response is to apprehend a child

if they have any question in terms of the risk of harm to the child.

M. Polak: It's just that the idea of whether or not there would be additional research around it, I think.... I mean, if there is, that would be great if we could have a look-see. I guess my own interest, stemming from the fact that some years ago, in dealing with youth suicides in school.... There's actually a substantial body of research showing that when there's heightened, prolonged media attention on youth suicide, you get a spike in the number of youth suicides. It is interesting to hear a similar scenario. If there is other research available on that, certainly I think that would be helpful for us.

M. Nicholls: Certainly, it's the experience, as I said, in other provinces. But I don't have that research available to me right now.

G. Hogg (Chair): There is some research out of England with respect to that, which we will try and make available to the committee at some point.

Any other questions?

M. Nicholls: What I thought I would do is really follow the body of the report in terms of touching on the key recommendations that Mr. Hughes made. If you've got the report, you can simply follow along, and I may just add a little colour to it, and emphasis or flavour.

The first recommendation made by Mr. Hughes was to establish a new external oversight body. What had been in the past, prior to the core services review, was the Children's Commission, and its role was, as I've said earlier, to review all child deaths in the province and to monitor the performance or the operations of the Ministry of Children and Family Development.

Because the child death review function was such a significant function for the Children's Commission and because the establishment of the commission flowed from the inquiry into the death of a child, the commission came at its role very much focused on the child death review function, somewhat to the detriment of looking at other issues with respect to Children and Family. It just didn't have the necessary resources to look more broadly.

[1030]

It had a backlog of child deaths that it had to review right from the get-go. I think it had something like 80 files that were from years past, and then when it commenced its reviews, it went back to 1995. So it had two years of past reviews there. It was always in a situation of being behind in its reviews, simply because they were looking at all deaths in the province, and that was a big piece of work to pick off.

They were also responsible for reviewing all the plans of care of children who were in care. That function really didn't start to evolve until probably about the third or fourth year of the commission's existence, just because, as I said, they were so focused on child death reviews.

The other body that was an oversight body in some respects was the child and youth advocate's office. That

office was established in 1995. It was primarily established to address individual child and family concerns or complaints with respect to the child welfare system, but it also looked at systemic issues, and it submitted annual reports through to the Legislature with respect to both individual and systemic matters.

I think that, probably, had the child and youth officer not been in place at the time the Gove inquiry was established, Judge Gove would have recommended that the Children's Commission be an independent officer of the Legislature. But they already had an independent officer of the Legislature in the child and youth advocate, and rather than merge the two offices, which was arguably one option, his recommendation was to leave the child advocate in place and then set up this new Children's Commission, which wouldn't be an officer of the Legislature. It would report through to the Attorney General, but it would have independent investigation and reporting functions.

Both those offices existed until 2001. Actually, the Children's Commission existed until 2002. At that time the new office that was put in place was the child and youth office that is there today, headed up by Jane Morley. As I indicated earlier, the focus of that office is to work in a collaborative way with the child welfare system. It had less of a focus on individual advocacy, more of a focus on working in joint cooperation with the system itself. Also, its role with respect to the review of child deaths was dramatically diminished because of moving that function over to the coroner's office.

When we looked at those public bodies, we concluded that we were in agreement with the elimination of the child and youth advocate and rolling that function into the child and youth office. However, the function was dramatically reduced under the child and youth office. There was a lack of funding to deal with individual advocacy.

There had been an assumption made that there would not be a need for individual advocacy if the ministry had an effective complaints process in place. The reality was that the ministry did not have an effective complaints process in place. Therefore, advocacy was, obviously, absent and much needed in the child and youth office.

Again, the coroner's office didn't step up to the plate because of funding and other exigencies and wasn't carrying on an effective second-stage review of child deaths. These two things kind of fell through the cracks in that whole process.

When we looked at it, we said: "It seems to us that there's an ongoing need for child advocacy." We heard that message loud and clear from everyone we spoke to on both sides of the House, and people with very different views in terms of the child welfare system said that there's a need for individual advocacy.

There's also a need for systemic advocacy, because I think that the way you influence change in the system is not necessarily through each individual case, but by looking at them as a group, as a whole, you have a much better way of influencing that. These two functions we recommended be established as part of the role of this new external body, which we called the children and youth representative.

[1035]

The third function was to monitor the performance of the ministry itself. We did not envision that role being one of standing over the shoulders of the ministry and monitoring the day-to-day operations of the ministry. We saw it as stepping back at looking at ensuring that the ministry is publicly accountable: that it sets proper goals, works towards those goals, reports on the achievement of those goals and becomes a more publicly accountable ministry.

We also said that this is very rare — to have a ministry of government that has an independent oversight body just for that ministry. I'm not familiar with any other ministry that has that kind of function. But Mr. Hughes felt that in the context of the current environment and with the lack of public confidence in the child welfare system as it was, for an interim period there was this need for external oversight of the activities of the Ministry of Children and Family Development.

What we have recommended in our report is the creation of this new body. It will play a role, as I've said, in individual and systemic advocacy and in monitoring the Ministry of Children and Family Development and reporting on that.

It also will play a more limited role with respect to the review of child deaths. We've set out specific criteria by which the office will review child deaths. It's with respect to the death of children in care and where there is a causal connection between the adequacy of the service or the practice and procedures and policies of the ministry with respect to that death, so it's a much more contained role for child death review.

Secondarily under child death review, there is also a role for the new representative in looking at aggregated data on child death. When we looked at other jurisdictions both in Canada and across the world, there is a greater move to looking at aggregated data as a way of addressing systemic problems in the system.

While the Children's Commission was, I think, reasonably effective in the first few years of its existence in making recommendations for change.... They made some very good recommendations around motor vehicle accidents, and we all know that the largest percentage of deaths of children in this province is caused by motor vehicle accidents. That's either not wearing your seatbelt, driving at high speeds or some form of alcohol and drug combination. They made some very good recommendations around that. They made some very good recommendations around SIDS deaths.

I think they had a rather effective mechanism for influencing change and getting public bodies to buy into that change, but over time their recommendations became very repetitive. They became more minor in nature and didn't have the same influence on the system and import for change as they had earlier done, and that's been the experience of other jurisdictions.

It seems to be that within a five-year period, that kind of an organization has the most impact, and then it loses its impact. So Mr. Hughes determined that the key responsibility of this organization, this independent body, when looking at critical injuries and child

deaths, should be on looking at those that are within the child welfare system. That's the primary responsibility of the body with respect to child deaths.

We have suggested that there may be a broader role, in exceptional circumstances, for this external body. What we had envisioned there is that if there is a significant child death that's outside of the child welfare system or outside of those criteria but calls for some independent review, then this committee could refer that issue to the external body, and they could make a determination as to whether they wanted to consider a review.

[1040]

I guess what I want to emphasize is that the body that Mr. Hughes proposes as an external review body is not simply the re-creation of the Children's Commission. This body is different. It has some similarities to the Children's Commission. It has some similarities to the child and youth advocate and certainly, it has the focus of being a collaborative body that the child and youth officer function was trying to deliver on.

One of the things that we emphasize in the report is that the officer of the Legislature that we envision here is not simply a critic of government's child welfare policy. It is part of the overall operations of the child welfare system. Its expertise, its knowledge and its experience should be put to work to try and improve the system itself — the policies, the practices, the programs — and ought not simply to stand outside as a critic to the system.

There is much debate as to whether you can be an independent officer and still actually participate in coming to solutions. We've quoted Stephen Owen, who was the former Ombudsman, who very strongly believes that you can do both and still maintain your independence and your integrity and still criticize that which you've had a hand in actually changing.

I think this dynamic.... There was much debate over the past number of months as to whether an external independent body is a watchdog or a lap dog, and I say they're no dog. Their role is to work in a collaborative, positive way to make changes that are necessary for the system. They still are a critic; if they are not satisfied that the system is performing in the way that it should be or if it is not providing the services that it should be, it's totally appropriate for them to make those criticisms known in a public arena.

I think that's a little different, perhaps, than how the body was envisioned under the Children's Commission.

I'll just stop there and see if there are any questions on the independent body.

K. Whittred: Just a couple of questions in reference to the oversight responsibility of the Representative for Children and Youth. It's recommendation four that recommends that the mandate be reviewed in five years.

M. Nicholls: Yes.

K. Whittred: Who do you envision doing the reviewing? Would that be a committee, or would it be the Legislature, or is it just an open...?

M. Nicholls: It's left to government to make that determination. They may well wish to consider referring it to this committee, or they may want to appoint an external group or an individual to do the actual review and make a recommendation.

We didn't get into that.

K. Whittred: Okay. Thank you.

My second question is also related to the oversight capacity of the officer and has to do with the harmonization with regional models. I'm wondering: how do you envision that coming together?

M. Nicholls: You're talking about transfer of governance? Is that what you...?

K. Whittred: That's correct.

M. Nicholls: Well, I think that's one of the big challenges for the ministry itself. The ministry, as I understand it, at this point in time is engaging in consultations.

There are at least two aspects to that regional question. One is: will the five regions that are currently in existence and that are headed by regional executive directors continue to be the model for regionalization of non-aboriginal child welfare functions? Then there is the aboriginal regionalization.

Regionalization itself was not an issue under the terms of reference for Mr. Hughes, but because it was such a big issue in the context of how you deliver these services and what the roles and responsibilities should be, he did speak to the issue of what he perceived was necessary in order for whatever form of governance to take place. What he said was that he encouraged a regional approach to governance.

[1045]

He believed that those who are making the decisions at a community level better understand the needs of that community and can therefore direct limited resources in a more effective way. However, he said also that there is an important role for the central body, the ministry itself, and that is in the setting of standards and policies, ensuring that they're adequately met and ensuring that the system is publicly accountable — a very important role.

We saw that the earlier transfer of responsibilities like child death reviews to the end audits of the regions.... They weren't effectively carried out. In some instances they weren't carried out at all. The ministry has to perform a function of ensuring that there is public accountability within those regions.

The debate is on as to how that works itself out. We didn't provide a hard, fast model. We believe that what we were hearing is that there has to be much discussion and debate that goes on between the communities themselves and the ministry.

What we understand had happened.... There had been planning committees set up in the past when they were looking at moving to regionalization, and these committees, we understand — although the ministry participated initially — kind of took over the role of

deciding what the governance structure was going to be and said: "Okay, government, you just step aside."

I think what Mr. Hughes wanted to make clear is that any move to regionalization is a partnership. It's a partnership between government, the community and the folks that are in those regions, to work out an effective system to identify the priorities.

What we have proposed, and I think they're listed here somewhere....

G. Hogg (Chair): Perhaps I can take this moment just to check whether or not Diane is on the speaker.

D. Thorne: Yes. I'm just listening, and it's actually really hard to hear, so I'm listening very carefully.

M. Nicholls: I would just refer you to page 70 of the report, where Mr. Hughes just provides some guidelines and terms of the governance process. Essentially, those guidelines are the four points which elaborate or emphasize that political leadership must demonstrate a clear and continuing commitment to decentralization. There has been back-and-forth on this initiative for, I would say, at least the past ten years, maybe even longer.

There are very strong advocacy groups out there that support one way or the other or some different way, so government is often pushed and pulled in terms of its movement towards a new governance structure. Essentially, what we said is that you need to stay the course, you need to know that there will be some system failures, and you need to provide for addressing those in a very quick and proactive way, but you need to continue to move to decentralize the system.

We said that decentralizing can't be done off the side of a desk. It needs a dedicated team, it needs adequate time for consultation and input from the community and others, and it can't be done in an environment of ongoing instability and change. There has to be some kind of managing of the other issues in a calm, quiet way so that if this is a priority, it takes that time and attention. Budget stability during this period is essential.

[1050]

That decentralization must be undertaken in partnership with the ministry and the communities and the participation in the development of a decentralized plan. This also applies to the development of the aboriginal authorities. Responsibility for governance should be transferred to the regions only after they have demonstrated the ability to carry that out. Baselines should be set, and then they should be monitored to see if they're able to achieve them. At that point responsibility should be transferred out. That should be done within a legislative framework so that everybody is clear what their roles and responsibilities are.

What we found in this initial transfer of responsibilities was a lack of clarity around what the roles of the regional executive directors were vis-à-vis the directors of child welfare that were established in the regions and what the role of the directors of child welfare in the regions was in relation to the director of child welfare at the centre. So it really became an op-

portunity for errors and mistakes and oversights to be made, and that did happen.

I'm not answering your question directly because we didn't propose a model. What's happening now, as I understand it, is that the ministry is involved in consultations with those communities, and they may make some determinations. One of the options is to, as had been happening in the past, start to move some of the responsibilities out to the regions but do it in a way that the regions can effectively embrace — reasonably funded and monitored to ensure that it's operating effectively.

I don't see governance necessarily being an overnight response. I think this is going to take a little bit of time to put in place and make sure that it's operating effectively.

A. Dix: Just a question. There are two sort of levels of review that had been advocated and were in place prior to 2002. The first was with respect to child death review, and the second was with respect to critical injury. In fact, I think the Children's Commission did some 60 to 80 — in that range — reviews of critical injury.

I just want to ask you to comment on that part of it, because child death review, as you've said and as the report suggests, fell through the cracks in that period. The review of critical injuries didn't just fall through the cracks; it was, in fact, eliminated. There were no such reviews. I know that it was reinstated in the report. I just wanted you to comment on it. It seems to make sense in the sense that if a child is critically injured based on abuse or something, really the fact of whether the child passed away or not isn't the central issue. The central issue is the issue of abuse.

M. Nicholls: In fact, critical injury is probably a better indicator of the adequacy of the services that are being provided than a death is. There's more ability to get accurate information and to change the policies and practices that there are.

I appreciate that issue being raised, Adrian. When we looked at it, we really didn't distinguish between death reviews and critical injury reviews. They're both very significant.

A. Dix: Yeah. Just in terms of... Really, the two previous offices had two really critical elements of independence with respect to those functions, which were that the child advocate was an officer of the Legislature, and you picked that up here. In the case of the Children's Commission, deaths were automatically referred, so it wasn't the government's choice as to whether a case was referred. It was the Children's Commission's choice — the extent to which it reviewed a case and dealt with a case. So you've picked up both of those elements here.

You took a look at the 955 cases that were lost or sent to a warehouse or however you want to define it. About a quarter — 27 percent, I think; 255 — of those cases were children in care and known to the ministry. We saw in the first report of the coroner — I think, recently, his first report on child death reviews — kind of similar numbers.

[1055]

It's kind of an expectation that the representative will be reviewing.... It was approximately 25 percent, in the coroner's recent review, that were children in care and known to the ministry, which should, I guess, be sobering to all of us in terms of dealing with these issues, given the very small percentage of children in British Columbia who are in care and are known to the ministry. It gives us a sense of what our collective challenge is.

Is that your expectation? That you'll see this proportion of cases, and that the desire is for the other cases, unless there are special circumstances, to stay with the coroner and the secondary element of that review stay with the coroner's child death review? You know what I'm saying?

M. Nicholls: The recommendation was that the secondary review process that the coroner had put in place should remain, because they are looking at issues that relate to the circumstances surrounding the death itself, but they don't have the expertise to look at what the implications are for the child welfare system and the adequacy of services with respect to that.

It's hard to predict what the numbers would be that the representative would review. What we have also said is that there should be discretion given to the representative as to how they would review these child deaths. I think that approximately 120 of the child deaths per year were investigated by the Children's Commission in depth — full investigations where you brought in and interviewed witnesses, etc.

We don't envision that — first of all because it's not all child deaths, so that diminishes the numbers. It's just child deaths within the child welfare system. Secondly, there are natural deaths and other deaths that don't require that necessity to have a full investigation. Certainly, when we heard from children's commissioners or deputy commissioners, they felt that they had overdone it in terms of the number of full investigations they needed. So not as many full investigations; reviews of some sort so that you can make the determination as to whether you need to go further or not; and probably greater aggregation of data in looking at these kinds of issues.

A. Dix: Just a couple more questions. One of the places where this process fell down — to be fair, not just in 2002 but I think in 1994-1995 as well — was in these important transitional periods, when... I guess I'm asking whether you'd agree with me that the sooner the child representative is in place, the better, in the sense that we're in a period now of transition, of uncertainty. If there are cases that come forward now, technically they wouldn't go to the child representative.

I want to ask you, first of all, if you have a view — regardless of when the proclamation date is — as to when the review process should start. They would be looking at past cases and probably beginning judgment of enquiries later anyway. First of all, do you think that the child representative should, whether it be April

when the report was tabled or May when the legislation was passed.... Do you think that should be a starting point? Or should there be a previous starting point to that in terms of the review function? Or do you think that should start with the proclamation? That's the first thing.

Second, I just want you to comment on, I think, the real need — I'm on the committee, and Mary's on the committee — to get the representative in place as soon as possible, even in advance of proclamation, so that the transition process is really properly handled on this occasion.

M. Nicholls: I'll answer the last question first. I agree with you. I think that the sooner you get the representative in place, the better it will be for the system itself, so I'm heartened to see that these two committees have been established quickly and that legislation passed. I do have some concerns about the legislation, but I understand that there's an opportunity to make some changes in the next session of the Legislature, so that assuages some of my concerns that I have with it.

In terms of when the new representative takes on their mandate, one of the concerns that Mr. Hughes had, after looking at the Children's Commission, was to not unnecessarily burden a new body with the focus again becoming all-consumed by child deaths and critical injuries. So we were not enamoured of the prospect of retroactive responsibility being attached to the representative.

[1100]

There were some suggestions within the report as to how the coroner's office and the child and youth officer could address this in the interim period, and I'm presuming that's what they're doing. I haven't been in touch with the transition team, so I'm not up to date on what's happening there, but I'm assuming that they are looking at it.

There's an ability, then, through the process of the review we've proposed for the coroner's office, for them to refer matters that they view as relevant to the representative. That may mean some retroactivity in looking at deaths that occurred, perhaps, before the individual comes on stream, but in a limited sense. I just think there's such a detriment to retroactively attaching all of these issues to an office that's going to be busy getting itself established and has a lot more issues to deal with — like overseeing the governance evolution and how it's effectively being transferred; like the service transformation issues and how they are moving out. There are so many other substantive issues that if you labour it too much with retroactive responsibilities, you're going to create the same kind of problems you had with the Children's Commission.

A. Dix: The last question I have. You made reference to concerns you had with the legislation. It may not be an opportunity here. I think we all, including people on both sides of the House, had some.... There's a real desire to bring the legislation forward. I think people in the Ministry of Attorney General, the Attorney General and the Minister of Children and Families

worked hard. We were all committed to seeing the legislation passed prior to the adjournment of the session. Will there be an occasion or is there a possibility of you forwarding your concerns on the legislation to this committee?

One of the concerns I have, just to give you an example — and we raised it in the legislative debate — is that the child welfare system isn't, strictly speaking, limited to the Ministry of Children and Family Development. There's an increasing reliance in the system on programs in the Ministry of Employment and Income Assistance — for example, the Child in the Home of a Relative program. It's an out-of-care option that I think has been increasingly used by the system and, essentially, by the ministries together, and yet the legislation in that area isn't subject to review by the new child and youth representative.

That's one of the issues that we raised, which is just to say that we don't want.... A future government, in a sense, could divide responsibility and move it to other ministries. You can say, "Well, it should be limited to this ministry," and really what we're talking about is the child welfare system. I wonder if you could comment on that and then, more generally, on what your concerns are with the legislation. And is there an opportunity for this committee to hear those concerns or see them in writing or whatever?

M. Nicholls: Right. In terms of an expanded mandate which would incorporate other programs and services outside of the child welfare system, we debated that quite a bit and decided to focus on the child welfare system. Again, we'd had a number of kicks at this already, and there's a point in time where you make it all too broad and it doesn't get effectively carried out. We felt that in order not to handicap the new organization from the start... Give it a reasonable mandate. I see that as part of the evolution over time. If, in fact, this body continues beyond its five-year review, then that's an opportunity to look at: is the mandate adequate? Does it need to be expanded to include other services and programs?

I don't disagree, Adrian, with the underlying philosophy, because I think there is an issue of perhaps having a need for some kind of review of those programs as well. They do affect children in the child welfare system. But I think, more than anything, we were being pragmatic at the time in saying, "Give the new organization a manageable mandate" — that, and the priorities of the child welfare system at this point.

[1105]

In terms of my comments on the legislation, I'd be happy to submit my comments through the Chair on our concerns around the bill. I understand, as well, that it was rushed through the House, and I actually commend government for doing that to get the ball rolling and get things moving along. Now that we have greater opportunity to look at it, you do see some things that could do with some additional reconsideration and tweaking. I'd be happy to do that, if you'd like me to.

A. Dix: Thank you very much.

G. Hogg (Chair): Thank you. We've had some brief discussions with respect to that, and I'd be happy to receive those comments from you, Maureen.

L. Krog (Deputy Chair): Maureen, your record in government doesn't require me to flatter you. You and Mr. Hughes enjoy a considerable reputation within the public sector.

It is his name on the report, and I very much appreciate that, but you were intimately involved with the preparation of this report. I just wanted to ask you in a general sort of way: are you satisfied, given the history of the office or its predecessors and the separation of it, that this is in fact the most effective model for children? In other words, are the recommendations of Mr. Hughes the right ones? I realize that puts you in a somewhat difficult position, but....

M. Nicholls: Of course they are. I support all the recommendations that are in here. They were much analyzed and debated. We really had to curtail our focus, as well, in terms of so many other issues out there in the child welfare system that we simply didn't have time to address — nor were they within our mandate, arguably.

I would say the biggest debate that Mr. Hughes and I had was over the establishment and reporting structure of this committee. It probably comes from our different perspectives and our experience and history. I had a concern that it would politicize the child welfare system even more. That concerns me; it concerns me tremendously. So I had an uneasiness about that issue.

In my role as a deputy minister I also have experience with the oversight bodies and the independent officers of the Legislature. Because they operate in a rather rarefied, perfect-world environment, sometimes the recommendations are just simply not very realistic in the real world.

We operate in the real world. We operate with budget constraints. We operate with lack of resources. We operate with multiple priorities — you know, balancing balls and all of that. My concern was: could you get an individual...? I think the individual that you recruit.... The whole system rises and falls on an effective individual as the representative, quite frankly. I think the more they're removed from the realities of the day-to-day exigencies of delivering a child welfare system, the less effective their recommendations end up being. That's why we emphasize that the person has to be not just aloof to the system but an integral part of the system and working in a co-operative, collaborative way.

I see this committee's function as questioning this and ensuring that this is occurring, not forgetting that there are still critics. You know, it's that fine balance that you have to have. I hope Mr. Hughes won't be upset if I say that our biggest debate was around this issue.

I felt, quite frankly, that the children's commissioner was not an officer of the Legislature, but it had all of the trappings of independence necessary for it to carry out its function, to have public confidence. It could investigate; it could inquire; it could report independently. It had what I consider the necessary inde-

pendence. Certainly they acted independently. They acted in such a way that they had that authority.

It is new for B.C. It's used in other provinces, but it's new for B.C. to have this kind of committee. So it'll be a challenge for all of you as members to really take up the mantle of looking at these issues not just in a partisan, political way but as to what is in the best interests of the system.

[1110]

Yes, you'll be challenged in terms of very different views, but I think if it happens here within these walls and the debate occurs here, it's much more effective, from the public perspective of actually viewing government and the opposition as jointly trying to address some really significant issues within the child welfare system.

The other thing is that this committee is not intended to usurp the role of the minister. That's going to be a tender walk too, because it's really important to respect that, in our democracy, ministerial responsibility trumps select standing committees.

Your function is to report out through the House, and it's not to give direction back to the ministry on what you would like to see done. But you have influence, and your influence is really with respect to the role of the representative and that individual carrying out her or his objectives and goals and being accountable. That's where I see it being effective.

Leonard, that was the biggest challenge — that particular issue. On the other issues, I think we were pretty much even in terms of the direction that we went — and as I say, some of the other issues that we just weren't able to get to, which really need to be addressed....

L. Krog (Deputy Chair): That leads to just one follow-up question. In terms of either the mandate of this committee or setting up another commission like this one, do you think that that would be appropriate? To some extent, my sense is that the minister in this particular capacity has become the new burial ground for political careers. Historically, it was regarded as the Ministry of Finance. Sadly, I must say, my impression is that this is one of the toughest ministries. It's the one that is difficult.

There have been, as you point out, enormous changes. What interests the public one day does not necessarily the next. The apprehensions go up; the apprehensions go down. It seems to me it's become a bit of a yo-yo. I'm sympathetic to a lot of what you've had to say today, but I'm just wondering: are there further things you would recommend that this committee investigate or do or, alternatively, that should be carried out by a further commission? In other words, are we doing the right thing for children in comparison to world models or other provincial models?

I appreciate there's always room for improvement, but are we so significantly below...?

M. Nicholls: No, absolutely not. We looked for the ideal model, and it hasn't been discovered yet, quite frankly. There are little bits and pieces from various jurisdictions that you could say would be nice to bring in.

That's always being done. That's the unfortunate thing about all this focus on child deaths. You fail to focus, the public fails to focus, and we fail to communicate that there are other good things happening. There are projects underway all the time that are endeavouring to improve the situation for children in the province and their families.

I think we've identified the key changes that need to be made in the system to improve it. I think the energies and efforts should be expended to doing that, to making sure that those are in place.

That isn't to say you completely ignore some of the other issues that are out there. A couple of the issues we did not engage in, simply because.... One, in the priority scheme of things, they weren't weighted as important, but they still need to be addressed.

There was much debate and discussion about whether we should look at the issue of training for social workers and requiring registration of social workers, which was a recommendation of the Gove inquiry. I think there was an ambivalent feeling towards doing that.

If the environment changes, as it's looking like it will do, and if service transformation moves along and you move to less in-care placement and more out-of-care options.... Sometimes the experience and education of those in the field has largely been of social workers: investigate, apprehend, and deal with the courts. They're very much a police-officer kind of function, where you take the child, you get them before the courts, you get your orders, you put them in placement, and you monitor.

[1115]

When you move to a different kind of system that says: "Okay, the family's important. If we can maintain the family base, if we can provide services and programs that support the family, and if the child is not at risk and a sense of harm...."

It may be a dysfunctional family. There are lots of dysfunctional families, but there's also lots of research that says removing a child from a dysfunctional family can be far more detrimental to him than a placement in a non-family situation. Children seem to manage with a good bit of dysfunction in their lives. Nobody has a perfect family background, or very few people have a perfect family background.

Those kinds of abilities in social workers to be more of a counsellor, more of a coordinator of services for the family and the child, are not necessarily attributes that many social workers currently have, so I'm not persuaded that having registered social workers is necessarily the answer. We didn't have enough time to look at that, debate it, talk about it and analyze it in a way that we felt confident making a recommendation, so we didn't pursue that.

There are other issues like that, Leonard. That's one that I can think of, off the top of my head. But in terms of the major issues, I think we've captured them as best we could in the report.

L. Krog (Deputy Chair): Thanks to you for your intelligence and your candour.

Thank you, Mr. Chair, for your indulgence.

M. Polak: This dovetails well. Although it was a question I wrote down a few speakers ago, it actually has flowed nicely into this.

You've spent a significant amount of time today — and there's a significant amount of text devoted to it in the report — discussing the roles and responsibilities within and outside the ministry — how those have impacted in the past and how they might perform a more effective function going forward.

As we go forward, and as we look at building what is hoped to be a collaborative model, I wonder if you could comment on three things. One of them is a sort of subset of another, so it's maybe not entirely on its own.

You started a bit of a comment with respect to our committee and its role in an ongoing way, in particular around day-to-day operations of the ministry. I'd be interested to hear your reflection on that. The role of the representative, being a member of the committee, looking to select that representative.... I wonder if you had thoughts respecting attributes, things we ought to be on the lookout for as members of that selection committee, things that may stand out to you in your mind.

The subset question with respect to that is: what should that tell us as a committee in terms of the scope of our search for that person?

M. Nicholls: You wanted me to comment more on my reference to the day-to-day operations....

M. Polak: Vis-à-vis the role of this committee.

M. Nicholls: I don't see any role for the committee in day-to-day operations. I don't think that's the function of this committee at all. I think that's the role of a minister and, in some respects, in a more removed view, the role of the representative, in the aggregate look. But I don't see a role for this committee in day-to-day operations.

In terms of the selection of the representative, I think that the qualities, skills and abilities you would want to look for in the individual for that job are somebody that has those strong, collaborative, cooperative abilities. You have to tease that out other than through just advertising. I don't know what the process is that you're going to follow for recruitment, but I think you really need to get at those kinds of attributes, and sometimes you can't do that through the traditional interview methods.

[1120]

I think some of the qualities that I would certainly look for in that individual are strong mediation skills, conflict resolution skills, and strong analytical and policy skills. If you want this individual to operate in a collaborative way to bring about positive change in a system, they need to have that comprehension of government, how it operates and how it interacts and what the roles of the various ministries and agencies of government are.

There is a legal component to it. They have to undertake investigations. They need to be either legally trained or very cognizant of the administrative fairness practices that need to be involved and know how to carry out those functions in an effective way.

I think they need to be good communicators, and I think that is both in writing and orally, because part of what they're doing is speaking to the public and to children and families about what that role is and how to access service — making that very strong verbal and written communication to the public arena.

I think you need a good, sound understanding of the child welfare system. I wouldn't be persuaded that you'd need an MSW or something like that, but a good understanding of the social welfare system would be very important.

M. Polak: Thank you.

M. Nicholls: The scope of the search. A part we haven't come to is the aboriginal issue and the role of aboriginal people with respect to the representative function. While we haven't recommended that the representative must be an aboriginal person, we have said that if it's not, then at least one of the deputies should be aboriginal.

In conducting your search, I think you should give some strong consideration to seeking out an aboriginal person. We had much in the way of interesting discussion and debate around the aboriginal issue and around the characteristics or qualities of what would be appropriate for an aboriginal leader as a representative. I think, like many communities, there is a really diverse view.

There seems to be a lack of female aboriginal leadership in the child welfare system, because the band council members are often mostly male. They have considerable control over the activities of the child welfare system within their sphere of responsibility. There was much discussion that, really, a solid, knowledgeable female voice would be very, very beneficial in the role of the representative. Again, that is not a universal opinion, but I am sharing that with you, in terms of when you're focusing on recruitment.

One of the emphases that was made to us, because of the large volume of aboriginal children who are in care in this province in comparison to the percentage of aboriginal children generally in the province, was that it's essential.... There needs to be an aboriginal person who can speak truths to the aboriginal community. Those are not well-received from a non-aboriginal person. Those are issues around the role of band councils, issues around the use of resources, issues around appropriate investigations into critical injuries and child deaths. It just gives more credibility if the voice that aboriginal people are hearing is one of their own voices communicating that.

That recommendation rolls through with respect to what we've discussed around ministry staff. I spoke to a provincial court judge just the other day who had an aboriginal family in front of her with a multitude of complex issues. She asked that the case be stood down and that a native court worker who hadn't been involved become involved in it.

[1125]

She said they came back about six weeks later, and the whole approach was much different. The responsiveness of the family and the child was much different

because they were speaking in an understanding way to the issues of that aboriginal family. That's not to say we can't do that, but there's a greater comfort and ease, and it's quite natural.

One of the recommendations we have made is that there be more social workers who can administrate. There are very few aboriginal social workers at this point in time, so that really needs to be addressed.

Anyway, I hope that answers your question.

M. Polak: That does. Thank you very much.

G. Hogg (Chair): Were there any other questions at this point? No?

M. Nicholls: I'll just quickly go through the key recommendations. We've talked a little bit about the aboriginal situation, and we know what the statistics are in terms of aboriginal children in care. I think everybody would agree that it's a pretty critical situation that needs to be addressed in a proactive way.

On the issue of aboriginal governance. As you know, this government and the aboriginal leaders signed an agreement back in, I think it was, 2002 or 2003, which agreed to the establishment of five aboriginal authorities in the province. What we found through our discussions with aboriginal people and others was that there was not a real embracing or understanding of how this five-authority model would effectively work. And we didn't hear strong support from most areas of the aboriginal community — that they wanted this.

They want, certainly, greater input and greater say and probably greater control, but they want to be certain as to the road that they're going down. They don't feel that they've had sufficient input and discussion and debate about that. So we've recommended not moving immediately towards the five aboriginal authorities, but having that discussion. I understand that the ministry is in the process of having that discussion and debate, and whatever comes of that will be the recommendations for whatever model there is.

We looked at other jurisdictions. We looked at Alberta; we looked at Manitoba. B.C. doesn't have a long history of addressing the aboriginal issue with any kind of proactive nature. I mean, it wasn't until the early '80s that government actually started to recognize some of the inherent rights of the aboriginal community. Our child welfare system, as it pertains to the aboriginal people, is probably further behind than other jurisdictions like Manitoba or Alberta, where there is a larger percentage of aboriginal people and where they have had some major, critical issues that they've had to address.

I kind of liked the model in Manitoba, which starts out by making sure that the agencies that actually carry out the functions on behalf of the aboriginal people are really supported, funded and provided with guidance so that they carry it out and they're an effective mechanism. They've been in place for something like 23 years, and now they've set out regional authorities to which the province has devolved certain of its responsibilities.

They've only been in place for two years, so even in a province like Manitoba, which has a larger percentage of aboriginal people, it has taken quite some time for that structure to evolve. That's because we are talking about kids. We're talking about vulnerable kids. Nobody has an appetite to just jump right into it and turn it all over. There's got to be a lot of support to that community before that happens.

We've said: "We don't have a model. We weren't asked to give a model. But here are some of the cautions you have to have." You certainly have to have aboriginal involvement and participation, and that should be jointly with the ministry and the aboriginal community, to come up with a model that makes sense in the context of their needs. I'm convinced that will happen, and I think it's in the process of happening.

Certainly, some of the feedback I've heard from various members of the aboriginal community is that they're pleased with the discussions that are underway in that regard. I don't see it as an immediate panacea; I do see it as over time.

In the meantime I think that government has a number of options ahead of it. It could increase its support to delegated aboriginal agencies, and I think it's also doing that. It's looking at ways that it can support the agencies better.

[1130]

It's looking at ways to introduce aboriginal cultural traditions into dispute resolution mechanisms. There are a variety of ways that we can respond to the aboriginal issue and still move ahead the potential changes of governance in the longer term.

We had hoped that the Kelowna accord signed in November would be able to form the basis — and we recommended that — for doing baseline community plan analysis around the needs of aboriginal communities. I don't know where that accord stands now. I guess it's really.... Well, you can tell me. I don't know.

G. Hogg (Chair): There were more announcements this morning.

M. Nicholls: I think one of the things that really hit us when we were talking to the aboriginal community is how difficult it is for the aboriginal-delegated agencies to do their day-to-day jobs — much more difficult than the non-aboriginal. They have two levels of government that they have to deal with — two different systems of reporting and granting structures. Everything is made so much more complex, yet they have, in essence, less support for responding to those two levels of government. There are lots of difficulties there.

Any questions on the aboriginal?

I'm just going to move to chapter four in the Ministry of Children and Families. We've talked about decentralization. I think that process is well under consideration by the ministry and the regions. I'm not sure where it is right now, but it's certainly not off the table. As I said, Mr. Hughes encouraged that decentralization move forward.

We have talked in our chapter four about the headquarters role. Regardless of the kind of model, there needs to be a strong central agency that ensures the public accountability of the child welfare system and sets standards. Those standards can be set in consultation with the regions to begin with. The regions, when they become more capable of determining their own standards, can determine them if they're equivalent to the ministry standards. But it's envisioned as an evolutionary process in terms of decentralization.

The structure of the ministry. We made a number of comments on the structure or the organization of the Ministry of Children and Families. What we found is that while Judge Gove had recommended an integrated ministry — an umbrella ministry with all these various child and youth services and programs within one umbrella.... On the organizational chart it looked like that, but in practice it didn't operate like that. In fact, the regions themselves had become more integrated, but the head office was very much segregated — separate silos of different responsibilities.

The good example is that for child death reviews, if there was a child death in a mental facility or youth correctional facility, they each did their own child death review, and then there was the child death review for the welfare system itself. So there could be three different child death reviews on the same child's death. It just didn't make a whole lot of sense to us, so we've recommended collapsing that into one child death review.

Quality assurance and accountability we touched on earlier. We've made recommendations. A lot of the reporting that the ministry has done is largely with respect to the apprehension of children: how many children are in care, how many have been investigated, how many have been apprehended, how many court orders, etc. There are very few qualitative measurements that look at how the child is making out through the system, what its level of education is, etc.

[1135]

The ministry is well aware of that. There are big challenges in moving to this kind of a system, and it's not the panacea by any means. But they are working towards it. They have done some good work.

If you compared this government, this ministry, to other jurisdictions across Canada — save for Alberta, which seems to be the most progressive in terms of public accountability — B.C. is second. While we identify it as a problem, put in context it's not as bad as seven other provinces are. We've outlined current initiatives that the ministry is undertaking, and I think they're making good progress in that area.

Quality assurance. Again, we've talked about that, and we have said that there is a role for the central body in ensuring that (1) the regions have a quality assurance program, (2) it meets certain criteria and (3) it's audited or monitored on an ongoing basis and it's reported out to the public.

I just wanted to talk about resolving complaints. Under the Children's Commission model, the Children's Commission had authority to act as a tribunal in the resolution of complaints by families or children of

the child welfare system. Everybody agreed that that model didn't work well. It became very adversarial. It took a long time for complaints to be resolved. Nobody seemed satisfied with it, so there was no great cry to have that reintroduced.

What we saw happen was that responsibility for complaint resolution was devolved to the regions, so it was kind of hit-or-miss as to whether there was an effective complaint resolution process within the regions. The head office, the ministry, had no ability to actually monitor or provide guidance to this system because their quality assurance program had been eliminated, for all intents and purposes.

We looked at: should we reintroduce some kind of external resolution process? We determined, no. The best solution, the most effective solution, is to resolve the issue closest to the problem by the individuals that have the problem, and if that doesn't work, to move it up to another level, but to try through mediative, collaborative arrangements to resolve the issues.

We did say that there needs to be a clear across-the-province policy. It can vary somewhat for the unique circumstances of each region, and there should be some reporting of its effectiveness. There was no way for us to determine whether it was or wasn't effective.

Shall I stop? Are there any questions?

G. Hogg (Chair): No. Please continue.

M. Nicholls: Okay. We've talked about the role of the ministry in critical injuries and child deaths. We've essentially said that any death of a child who is in care needs internal review, and that's because the ministry stands in the place of the parents, and a parent would want that to occur.

Then we've given some guidance, but we haven't given some firm recommendations on other criteria for child death reviews. The child and youth officer had made some recommendations. We endorsed some of those, and then we said: "But here are some things you need to think about." We've recommended criteria that they would look at and come up with a policy with respect to undertaking the reviews....

With respect to what has been called service transformation, which included a number of new programs and initiatives that were introduced from 2001 through to, I guess, 2003.... It included kith-and-kin agreements, youth agreements, improved adoption, promotion of adoption as an option and a variety of other initiatives. Mr. Hughes endorsed them. He believes that that is the way to go. But it needs to be supported by adequate funding and support for families.

If you're going to leave children with families that have some dysfunctional problems, they need to be supported and addressed if it's going to be an effective program — but not only that. You need to evaluate programs to determine their effectiveness. Some of that evaluation may well be anecdotal, but it needs to be more than anecdotal, and there has not been a history of good program service evaluation within the ministry.

[1140]

We're recommending that you evaluate at the outset to determine what your needs are, what you're trying to address. Then you evaluate after a period of time that it's been implemented to see if it's meeting the goals and objectives that you want, and if not, adjust it. We've said: "Continue with that, but there should be some external evaluations of these programs, and the first that should be evaluated is the kith-and-kin agreement."

Any questions?

Okay. Moving quickly along. Communication and coordination. Probably if you read that, your eyes would go crossed, because it's dry and it's somewhat complex. I guess the bottom line I'd want to say here is that we found that the ministry was terribly secretive. That probably goes back in history, you know, to when adoptions were private and all of this child's activity was very much considered personal, private information.

Having said that, it's important to protect the privacy of individuals in certain circumstances. What I've found most concerning was that because of this silo sort of mentality within the ministries, there were situations where one department wouldn't share information with another department on a mutual client that they had. To me, that is just ludicrous beyond belief. I was shocked that it was occurring. Our recommendations addressed those kinds of things. They also address sharing information with other ministries, like Education and Health, which can create a better, fuller picture of the child's situation.

One of the concerns I have about the legislation is that it may actually constrain the representative's ability to pull all that information together. Having said that, I'm assured that government says it's going to look at all of that access and share in a disclosure of information.

We reviewed with the Information and Privacy Commissioner the recommendations we made, to get his perspective on them. Our sense was that he was very supportive of the changes that were being made — that they would create more openness and transparency and therefore, hopefully, less suspicion by the public generally, and certainly by families and children about the actions of the ministry itself.

That has a lot of work to be done on it, and hopefully, legislation will come forward in the next session that will address making more open disclosure and information-sharing processes.

Questions?

No. Hearing no questions, I will move right along. Do you want me to go through the whole process of the failed transfer of the child death review files from the commission, or are we comfortable that we all understand that it failed?

G. Hogg (Chair): I think that's been quite adequately canvassed, unless anybody has questions with respect to that. So we can move on.

M. Nicholls: Yeah, I think that was pretty well canvassed. We reviewed every file that was out there. We reviewed the process by which the second stage of re-

view was being conducted by the coroner's office. I understand that is complete. They completed their report, and Bob's your uncle.

The path from here. We talk in the last chapter, chapter seven, about how to move forward and ensuring there is a dedicated transition team and staff. One of the interesting awarenesses we came to when we started to look at this issue was the real challenges to creating effective transition when you've got so many independent public offices — when you have the public guardian and trustee, the coroner's office, the child and youth officer, the Ombudsman.

They all sometimes use their cloak of independence to remain aloof from what, I argue, are simply administrative processes that they ought to participate in and should be obliged to participate in. What I found was that a lot of this aloofness occurred — a "you can't tell me what to do; I'm an independent officer" kind of attitude. That was particularly in evidence between the Children's Commission and the coroner's service, where both of them were behaving somewhat badly in terms of being cooperative with the transition.

[1145]

We spent a fair bit of time saying: "You've got to set up a transition team." All of these bodies got to participate, and they all have a stake and an ownership in making sure this transition is effectively carried out. We provide some recommendations on budget and staffing and process.

I think maybe I'll just leave it there, Mr. Chair, if you have any more questions.

A. Dix: This is with respect to the public guardian and trustee. While it's true there is a protection of independence in many respects, in that case it's not a question of independence. It's the same independence any individual would have in its dealings with government. That's kind of the role of the public guardian and trustee.

I think one of the significant issues with respect to out-of-care arrangements, which was brought forward by the public guardian, was around section 54.1 agreements, which are guardianship agreements — one of the new out-of-care agreements that the government brought forward in the summer of 2002. Essentially, what has happened in that process is that those agreements aren't succeeding or are not happening, because there is a lowering of standards with respect to the protection of the interests of the child, and the public guardian has refused to sign off on them. In those cases, they have to.

Do you have any comment on that, on whether, in fact, that's an example — like the implementation of other programs in 2002 — of how not to do things? What is your feeling with respect to the specific recommendations made by the public guardian, with respect to those programs, to the Hughes commission?

M. Nicholls: We didn't address that. As you know, Adrian, we didn't address that issue specifically. It's now, as I understand it, before the courts, in terms of the disagreement between the ministry and the agency.

I think it would have required more time on our part. There are a number of issues in the relationship

between the public guardian and trustee and the ministry. Some areas have improved significantly. I think the public guardian today would say that it's improved. In other areas they are still having some real challenges in terms of cooperation.

One of the recommendations we made was to set up, essentially, a council of these various public bodies that play a role in the child welfare system and to get some of the communications flowing more effectively.

Boy, you know, throughout this whole child welfare system, communications and information-sharing is such a big issue. You saw it as a big issue with the little aboriginal girl who died in Port Alberni and the coroner's service inquiry that took place there, where police don't communicate with doctors and doctors don't communicate with social workers. It's endemic.

If you've read any of the historical, over-time, ten-year reviews of child death reviews.... There have been a number of them in Canada. There have been, certainly, a larger number in England where they take a ten- or 20-year period of time and look at all the child death reviews. One of the most significant factors is communications, and the lack.... It's just the day-to-day, human-nature communications.

That, in my view, is exacerbated when you have a lot of independent public bodies. They feel, again, more aloof to regular participation. Having said that, I think the public guardian and trustee was one of those bodies that recommended some mechanism for greater communication and cooperation. I'm hopeful that that will serve as a mechanism to resolve these issues before they become issues before the courts.

I'm not going to comment on the particulars of section 54.

K. Whittred: Maureen, probably in conclusion, as we're rapidly running out of time, I wonder: do you have any words of wisdom for this committee in that we are the body, if you like, that the officer of the Legislature will report to?

I was very interested in your remarks in response to Mr. Krog's question about the functioning of this person and your concerns that sometimes officers kind of operate on their own planet. It reminded me of when I was in opposition and in a critic role.

[1150]

The child advocate of the day, I believe it was, presented this wonderful report. It was a very touching report and so on, but it was an example of that. It was sort of like this iceberg out here floating around. In a perfect world, this is what would happen.

We're in the position of having to accept the report from this officer without having any role with the ministry, and yet you're suggesting, I think, that this person must operate with a certain degree of pragmatism and whatnot. Just how would you advise us in reconciling that?

M. Nicholls: As I said, you walk a fine line. Legislatively, you cannot engage in the role of a minister. That's not your job.

For you to have a fully fleshed out understanding — unless the Chair can contradict me — I don't see any problem, really, with also maybe inviting the deputy minister of the ministry to come and speak to you on the same issues that the representative is reporting on. You may want them together. I mean, what you want is to encourage a free flow of information and discussion around these issues.

When you get the report of the representative, part of your role is to review it, to question her or him, discuss it, debate it, identify potential areas where you believe more could be done or less could be done, or to just recommend adoption of it because you believe that the system is working effectively.

I guess I would be inclined to be.... As a committee, I think it's going to take you some time to find your legs in terms of where the line is and where you draw the boundaries between your role, the minister's role, the House's role and the representative's role.

I myself would probably be inclined to be a bit more tenuous initially and gain information, as you're doing today. Have different people in front of you that inform you and give you a better sense of the system and how it operates, so that when the representative makes their report to you, you can ask some thoughtful questions and you have a good understanding of how the system operates, to ask those questions. Maybe suggest to the representative that they look at different things and different issues, if that's appropriate.

I don't know if that answers you.

K. Whittred: Yeah. Thank you.

G. Hogg (Chair): Any other questions of Maureen?

Hearing none, Maureen, let me on behalf of the committee extend our thanks to you, certainly with respect to the recommendations and the mandate given to this committee, having to look at and address raising consciousness and awareness amongst legislators. You've certainly helped us to do that and helped us to look at those and have outlined a number of the challenges facing the system, which was another part of the initial recommendations.

Thank you so very much for that. It's very much appreciated.

M. Nicholls: I enjoyed it. Thank you for inviting me.

G. Hogg (Chair): I also want to acknowledge Wynne MacAlpine as our research analyst — welcome, and thank you — and Maurine Karagianis for sitting in and participating as the opposition critic and monitoring today's proceedings.

Other Business

G. Hogg (Chair): With respect to any other business, are there any other items of business to come before the committee this day?

Let me suggest that I would like to meet with the deputy to look at the other witnesses that we may be able to invite in the coming months to come before us and increase our awareness and understanding of the issues that are facing the system, as we move forward. If I see agreement amongst everyone, then I will meet with Leonard, and we will do that.

With respect to time, are people away for the month of August? Is that the month we should avoid?

Interjections.

G. Hogg (Chair): Avoid August, except for Adrian, who will be prepared to meet twice in August — and Adrian will be meeting here by himself. Avoid all of August? Or is the first week of August available?

D. Thorne: It's available for me.

Interjection.

G. Hogg (Chair): Okay. Leonard and I will put that together. Any other comments? Motion to adjourn?
Thank you very much. Have a great summer.

The committee adjourned at 11:55 a.m.

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Published by British Columbia Hansard Services, and printed under the authority of the Speaker by the Queen's Printer, Victoria. Rates: single issue, \$2.85; per calendar year, mailed daily, \$298. GST extra. Agent: Crown Publications Inc., 521 Fort St., Victoria, B.C. V8W 1E7. Telephone: (250) 386-4636. Fax: 386-0221.

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