

# *Legal Information Workshop*

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## My Observations

- 30 years experience as an advocate
- Designed and delivered support programs that follow a family support model
- Observed oppression and human rights violations in the NWT
- Practices are counter to an Aboriginal worldview

## My Observations

- Parents are highly traumatized and don't internalize information
- Parents don't trust systems and mainstream services
- Systems and mainstream services are often not in a position to responsive
- Services must take a trauma-informed approach

## My Observations

- Advocacy is a critical element of service provision
- Most critical source of help from parents perspective is someone who "believes in them", "who is on their side."

## Family Support    Traditional Programs

- Help to prevent crises by meeting needs early
- Offer help meeting basic needs, special services and referrals
- Respond flexibly to family and community needs
- Focus on families

- Intervene after crisis occur and needs intensify
- Offer only specific services or instruments
- Program and funding source dictate service
- Focus on individuals

## Family Support

- Reach out to families
- Build on family strengths
- Often offer drop in services
- Respond quickly to needs
- Offer services to family's home or in home like centers

## Traditional Programs

- Focus on individuals
- Emphasize family problems
- Have strict eligibility requirements
- Have rigid office hours
- Often have waiting lists
- Services are office based

## Family Support v.s. Program Driven

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| <ul style="list-style-type: none"> <li>• Comprehensive/flexible</li> <li>• Responsive and individualized</li> <li>• Helper discretion</li> <li>• Preventive, inclusive and strength-based</li> <li>• Shaped by clients needs</li> </ul> | <ul style="list-style-type: none"> <li>• Fragmented, categorized funding</li> <li>• Rule driven – standardized</li> <li>• Minimal discretion</li> <li>• Crisis oriented, problem-based eligibility and responses</li> <li>• Shaped by agency needs</li> </ul> |
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## Family Support v.s. Program Driven

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| <ul style="list-style-type: none"> <li>• Un-bureaucratic</li> <li>• Cooperation across systems and services</li> <li>• Family focus</li> <li>• Outcome-oriented accountability</li> <li>• Rooted in the community</li> </ul> | <ul style="list-style-type: none"> <li>• Bureaucratic</li> <li>• Narrowly defined professional responsibilities</li> <li>• Categorical training</li> <li>• Task-regulated accountability</li> <li>• Rigid and conflicting eligibility requirements</li> </ul> |
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## Family Support v.s. Program Driven

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| <ul style="list-style-type: none"><li>• Emphasis on relationships of mutual trust</li><li>• Evolving</li><li>• Relentless problem-solving</li></ul> | <ul style="list-style-type: none"><li>• Rigid and conflicting eligibility requirements</li><li>• Large case loads</li><li>• Unchanging over time</li></ul> |
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## Rights of Indigenous People

- United Nations Declaration on the Rights of Indigenous Peoples adopted in 2007
- Canada signed on in November 2010
- Not legally binding
- Establishes international legal norms
- Reflects commitment to move in certain directions

## Rights of Indigenous People

- Outlines individual and collective rights taking into account specific cultural, social and economic circumstances
- Sets "an important standard for the treatment of Indigenous peoples
- A significant tool to eliminate human rights violations

## Rights of Indigenous People

- Reports to the United Nations Permanent Forum on the Rights of Indigenous Peoples

## Rights of the Child

- Convention on the Rights of the Child came into force in 1990
- Canada signed on in 1990
- Defines a child as anyone under 18 years old unless domestic law is different
- Deals with child-specific needs and rights including:
  - the right to life

## Rights of the Child

- their own name and identify
- to be raised by their parents within a family or cultural grouping; and
- to have a relationship with both parents, even if separated
- Obliges governments to allow parents to exercise their parental responsibilities
- Acknowledges children have the right to:
  - express their opinions, to have those heard and acted upon when appropriate

## Rights of the Child

- be protected from abuse or exploitation
- have their privacy protected and not be subject to excessive interference
- Obliges governments to provide children with a lawyer to respond to any court action concerning their care and asks that the child's viewpoint be heard

## Rights of the Child

- Obliges governments to protect children from all forms of physical or mental violence – does not include corporal punishments
- Requires governments act in the best interests of the child as opposed to treating children like possessions
- Monitored by the United Nations Committee on the Rights of the Child

## CEDAW

- Convention on the Elimination of All Forms of Discrimination Against Women adopted in 1979
- Ensures the equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field

## CEDAW

- Governments take measures to seek to eliminate prejudices and customs based on the idea of the inferiority or the superiority of one sex or on stereotyped role for men and women
- Governments are required to enshrine gender equality into their laws and repeal all discriminatory laws

## Canadian Constitution

- Canadian Charter of Rights and Freedoms entrenched in the Constitution of Canada in 1982
- Entrenches principles enunciated in the Universal Declaration of Human Rights
- Aboriginal and treaty rights including right to self-determination spelled out in Section 35 of the Constitution Act

## Canadian Constitution

- Applies to government laws and actions, but not private activity
- Inequities in First Nations child welfare well documented by the Auditor General and others
- The Federal Court directed the Canadian Human Rights Tribunal to examine evidence of discrimination against First Nations children

## Canadian Constitution

The decision confirmed:

- Aboriginal people occupy a unique position within Canada's constitutional and legal structure
- Interpretation of Canadian laws, including the Canadian Human Rights Act, should reflect the values and principles of international human rights laws

## NWT Child and Family Services

- Child and Family Services Act and Canada's Criminal Code define when intervention to protect children is necessary
- Report on the Review of the Child and Family Services Act: Building Stronger Families in 2010
- 90% of child welfare cases involve aboriginal children

## NWT Child and Family Services

- Causes are rooted in:
  - a long history of discrimination, assimilation, trauma and cultural loss in residential schools
  - social inequality and poverty, poor housing; and
  - the lack of focus on prevention and support for families in need by child welfare services

## NWT Child and Family Services

- Many parents are victims themselves
- 2003 study found:
  - 88% of mothers suffered from a physical, emotional, cognitive or behavioural issue, and was the victim of domestic abuse 73% of the time
  - 38% of mothers disclosed she was herself maltreated as a child, as did 23% of the men
  - Fathers in child welfare cases were a perpetrator of domestic violence in 41% of cases
  - Alcohol and drug abuse are prevalent among both parents

## NWT Child and Family Services

- People from across the NWT said:
  - child welfare practices perpetuate the “grim legacy” of residential school
  - families lose their children instead of getting help to cope
  - children are sent away to distant foster parents instead of to extended family
  - addictions ravage families and communities, but few practical avenues for treatment, and little or no local support for people seeking help

## NWT Child and Family Services

- Recommendations
  - Focus on prevention and early intervention, helping families stay together and heal; including expansion of the Healthy Families Program into every community;
  - Take the least intrusive measures possible to deliver child welfare services, with increased emphasis on collaborative processes to solve family problems

## NWT Child and Family Services

- Recommendations
  - set up and fund Child and Family Services Committees in every community, as set out in the Act; providing resources to communities taking more responsibility for child welfare
  - provide alcohol and drug treatment, readily accessible and convenient to all communities;
  - extend Child and Family Services to youth aged 16-19, with provisions to assist young adults to age 23

## NWT Child and Family Services

- Recommendations
  - Improve administration by updating procedures increasing extended family placements, custom adoptions, and community-based solutions
  - develop a comprehensive Anti-Poverty Strategy that includes coordinating the work and policies of several departments in areas related to child welfare, such as social assistance, legal aid, and housing

# NWT Child and Family Services

- Recommendations
  - develop a strategic plan at the Department of Health and Social Services, incorporating the recommendations of this report, starting with a response to this report within 120 days.