



A Voice for Youth

Beyond 'at Risk' Children

Systemic Issues Report

regarding

Sexually Exploited Children

&

Oyate Safe House

September, 2006



A Voice for Youth

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September 2006

The Honourable P. Myron Kowalsky
Speaker of the Legislative Assembly
129 Legislative Building
REGINA SK S4S 0B3

Dear Mr. Speaker:

I have the honour of submitting to you and to the Members of the Legislative Assembly, in accordance with Section 30.1(3) of *The Ombudsman and Children's Advocate Act*, my report "**Beyond 'at risk' Children: Systemic Issues Report regarding Sexually Exploited Children and Oyate Safe House**".

Respectfully submitted,

A handwritten signature in black ink that reads "Marvin M. Bernstein". The signature is written in a cursive style.

Marvin M. Bernstein, B.A., LL.B., LL.M.
Children's Advocate
Province of Saskatchewan

MMB/pdf
Attachment

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Beyond 'at Risk' Children

"These are kids with special needs. They are beyond 'at risk'. They need the right people with the right attitude to make a difference. They don't need intervention not done right"

Former Oyate Staff Member

Overview

This Systemic Report should be read in the context of and in conjunction with, the Children's Advocate Office (CAO) Investigative Report regarding Oyate ataya Wakanyeja OwicaKiyapi Inc. Safe House (Oyate). The CAO Investigative Report regarding the Oyate Safe House can be obtained by contacting the Saskatchewan Children's Advocate Office at:

315 25th Street East
Saskatoon, Saskatchewan
S7K 2H6
Telephone: (306) 933-6700 Fax: (306) 933-8406

Or, Online: www.saskcao.ca and follow the appropriate links.

The CAO Investigative Report on Oyate is limited to the operation and conduct of that specific facility in relation to the Service Agreement signed with the Department of Community Resources (DCR) and the responsibilities of the respective parties thereto. Some of the findings from that investigation identified issues that the CAO considers to be systemic in nature, based on a broader exposure to these issues through previous work and some have been observed by the CAO in other circumstances of service delivery through government departments and consequently raise concern for this Office. This Systemic Report addresses these findings with recommendations that have broader implications for the treatment and service provision to sexually exploited children in Saskatchewan.

As such, they are systemic in nature and warrant a separate report to address the complexity associated with the issue of the sexual exploitation of children. There are a number of recommended changes needed that, once implemented, will improve the service delivery, protection and well being of these **beyond 'at risk'** children in Saskatchewan.

Background

In the course of preparing this Systemic Report, the CAO contacted and conversed with Mr. Peter Prebble and Ms. Arlene Julé, the former Co-Chairs of *The Special Committee to Prevent the Abuse and Exploitation of Children Through the Sex Trade* (Special Committee). The Special Committee was created to address the violence being perpetrated against children in Saskatchewan and received over 200 submissions from interested parties representing a wide array of people from across Saskatchewan. The Special Committee concluded its work through a Final Report that was tabled and

presented to the Legislative Assembly of Saskatchewan in June 2001. The dialogue with the previous Co-Chairs was very helpful in providing background context and the CAO is most appreciative of their time and insight into the complex issues and challenges associated with the intervention and prevention of the sexual exploitation of children in this province.

The Special Committee recognized sexual exploitation through the street sex trade was the most complex form of violence against children and that “by virtue of our government’s endorsement of the *UN Convention on the Rights of the Child*, Saskatchewan has a fundamental responsibility to ensure that the rights of all children are protected”¹.

Article 34 of the UN *CRC* specifically addresses the protection of sexually exploited children:

“States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;*
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;*
- (c) The exploitative use of children in pornographic performances and materials.”*

In its Thirty-fourth session Concluding Observations on October 27, 2003, the UN Committee on the Rights of the Child made the following concluding observations specific to Canada.

Sexual exploitation and trafficking

“52. The Committee is encouraged by the role Canada has played nationally and internationally in promoting awareness of sexual exploitation and working towards its reduction, including by adopting amendments to the Criminal Code in 1997 (Bill C-27) and the introduction in 2002 of Bill C-15A, facilitating the apprehension and prosecution of persons seeking the services of child victims of sexual exploitation and allowing for the prosecution in Canada of all acts of child sexual exploitation committed by Canadians abroad. The Committee notes, however, concerns relating to the vulnerability of street children and, in particular, Aboriginal children who, in disproportionate numbers, end up in

¹ Special Committee To Prevent the Abuse and Exploitation of Children Through the Sex Trade (2001) p.3

the sex trade as a means of survival. The Committee is also concerned about the increase of foreign children and women trafficked into Canada.”

“53. The Committee recommends that the State party further increase the protection and assistance provided to victims of sexual exploitation and trafficking, including prevention measures, social reintegration, access to health care and psychological assistance, in a culturally appropriate and coordinated manner, including by enhancing cooperation with non-governmental organizations and the countries of origin.”

If the prevention of violence against children, including the prevention of commercial sexual exploitation is to be addressed, the Special Committee found that the root causes must be addressed. The Special Committee identified the root causes of child sexual exploitation as domestic abuse, residential school syndrome and racism, poverty, substance abuse and societal attitudes against women. The very nature of commercial sexual exploitation, with the majority of the predators being non-aboriginal males, and over 80% of the children suffering this abuse being of aboriginal descent, was found to be indicative of larger societal cultural and gender issues. The Special Committee summarized this by stating *“sexual abuse of children on the streets is simply the tip of the iceberg of what are much deeper problems in Saskatchewan society”*.²

In response to the Special Committee's final report and its subsequent recommendations, the Government of Saskatchewan outlined its strategy and action plan in a Media Release on March 22, 2002. Entitled *Saskatchewan's Strategy to Prevent the Sexual Abuse and Exploitation of Children Through The Sex Trade*³, the action plan outlines a number of initiatives that the government states it has implemented (or will implement) at the date of release to support this highly vulnerable group of children. One of the initiatives listed is the allocation of resources to establish a safe house in Regina. In addition to this, the following was stated:

- *“Regional Intervention Committees have been established to support and coordinate service delivery to children and youth as they struggle to exit the street. These Committees will have representation from police, victim services, school divisions, and health districts.”*
- *“\$300,000 has been allocated to establish a safe house in Regina. Operation of the safe house and program design will have significant First Nations involvement.”*
- *“26 spaces in Social Services' continuum of residential care resources have been prioritized for victims of sexual exploitation.”*

² Ibid p.2

³ Government of Saskatchewan. Executive Council, Media Services.<http://www.gov.sk.ca/newsreel/releases/2002/03/22-183-attachment.html>.

- *“Social Workers in Regina, Saskatoon and Prince Albert have been designated to facilitate the investigation of sexual exploitation of children.”*
- *“Building on existing relationships with Aboriginal people, Saskatchewan will increase Aboriginal participation in the design, delivery and monitoring of protective services and other supports to children and families.”*
- *“New training for staff in existing group homes, therapeutic foster homes and other treatment resources to ensure they can respond appropriately to exploited children and youth.”*

The strategy also demonstrates that the Government understands the need for an integrated, multi-disciplinary approach to overcome the root causes that channel children to the street in order to ensure the protection, safety and well being of this highly vulnerable group. The strategy expressed that these root causes would be addressed through:

- *“Enhanced training from Saskatchewan Health for mental health and addictions practitioners to improve treatment and support for sexually exploited children. Health continues to work with health authorities to develop more flexible, community-based youth addiction services and other health support services.”*
- *“Continued investment in “Building Independence” which contributes to a substantial reduction in the number of families relying on social assistance and the incidence of child poverty in Saskatchewan.”*

The need for an integrated, multi-disciplinary approach was further evidenced by the strategy outlining the Government's position with regard to prevention and early intervention strategies. In its public document, the Government commits that: *“In order to prevent the abuse and exploitation of children and youth:”*

- *“Education works with school divisions and community partners on strategies to identify and connect with children not in school.”*
- *“Government continues to invest in preventive programs, such as Kids First” and School^{PLUS}.”*

In a supplementary Media Release issued on October 1, 2002⁴, the Government of Saskatchewan recognized the importance of legislation as one tool in the prevention of the sexual exploitation of children by announcing the introduction of *The Emergency Protection for Victims of Child Sexual Abuse and Exploitation Act*. However, this new legislation focused on the perpetrators of sexual exploitation, not the victims. Consequently, some gaps in legislation still remain.

⁴ Government of Saskatchewan. Executive Council, Media Services.
<http://www.gov.sk.ca/newsrel/releases/2002/10/01-763.html>

It is evident that the Government committed substantial thought and resources to an action plan that would address a number of the recommendations made by *The Special Committee to Prevent the Abuse and Exploitation of Children Through the Sex Trade* and the complex issues presented by the sexual exploitation of children. As indicated above, many of the initiatives were presented by the Government as being “in place” at the time of its public announcements. The question then becomes, “What happened?” Why is such a complex issue with a demonstrated and accepted need for an integrated, collaborative and multi-disciplinary approach left on the shoulders of one department and one facility, in this case, the Oyate Safe House?

The failure of the Oyate Board and DCR to protect the interests and well being of children in their respective care has been documented and addressed in both the *Children's Advocate's Investigative Report* and the *Saskatchewan Provincial Auditor's Report on the Oyate Safe House*. In spite of this, the failure to protect the best interests and well being of sexually exploited children generally is not theirs to bear alone. In its publicly stated action plan, it is obvious that a “safe house” was simply one element in a continuum of services envisioned by the Government to address the issue of the sexual exploitation of children in Saskatchewan.

Furthermore, recommendations from the Special Committee called for the establishment of safe houses in both Regina and Prince Albert. As Saskatoon already had an established safe house operated by the Saskatoon Tribal Council, it would appear that the strategy of “safe houses” envisioned by the Special Committee was to provide a key resource in the major centers in Saskatchewan where the issue of commercial sexual exploitation of children was the most prevalent. By virtue of the Special Committee's recommendations and the Government's response subsequently, it is obvious that a “continuum of services” was the objective and commitment respectively. This was confirmed by the Children's Advocate in a discussion held with Mr. Peter Prebble, Co-Chair of the former Special Committee⁵.

In the opinion of the Children's Advocate, the Government did not implement its action plan, nor maintain its commitment, in a way that best meets the needs and provides an adequate level of service and entitlements to sexually exploited children.

During the course of the CAO investigation into the Oyate Safe House, it became apparent that the breakdown of the family unit and the lack of the corresponding protective environment that a family can provide, contributes to children being involved with ‘street’ activities. These children are often left to fend for themselves and their siblings through the activity of commercial sexual

⁵ Telephone discussion August 8, 2006.

exploitation. There is frequently a lack of a stable home life and issues of abuse and neglect. The majority of these sexually exploited children have been in and out of the foster care system and many have been identified as 'at risk children' since early childhood. For those children at Oyate with DCR status, their involvement with the child welfare system, on average, began at two years, ten months of age.

Consequently, had appropriate interventions been taken earlier in their lives, the heinous experience of sexual exploitation may have been circumvented. In addition, the subsequent need for placement in a residential resource some years down the road, with the hope of facilitating their exit from the street and preventing them from being sexually exploited may have been unnecessary. The Saskatchewan Government itself recognized the need for early intervention and prevention when it issued its aforementioned strategy to prevent the sexual abuse and commercial sexual exploitation of children, by stating:

“The government will ensure that sexually exploited children receive proactive, protective services that are child-centred and culturally sensitive.”

These children are “**beyond 'at risk'**”. The use of this term throughout this Report is meant to convey that the normal 'risks' associated with children in need of protection are not the only ones that apply here. These children require more. They need a system that understands they are beyond the normal definition of risk and require comprehensive support that will assist them in making the positive changes necessary to break the cycle of victimization. Such comprehensive support can only be achieved through a continuum of services that provides integrated solutions through collaborative, multi-disciplinary involvement.

The Department of Community Resources has a special parental obligation to 'at risk' children who are in need of protection or are in its care, that sets it apart from other government departments. This obligation is not only entrenched in *The Child and Family Services Act*, but extends through common law and its own internal policy based on its legislated mandate⁶. However, it cannot be expected to act alone. That is, to “be all things to all people”. The Government has a far greater, more collective responsibility. It has already recognized and stated the

⁶ See *Child and Family Services Act*, S.S. 1989-90, C. C-7.2, sections 52, 55, which imposes “all the rights and responsibilities of a parent” upon the Minister of Community Resources in respect of any child in his/her care as result of an apprehension or court order. In addition, section 17 authorizes an officer to apprehend a child in the community, who is believed, upon reasonable and probable grounds ‘to be in need of protection and at risk of incurring serious harm.’ As well, at common law, there is a strict fiduciary duty of care owed by a guardian towards his/her ward, and in the context of the Oyate investigation, there are a series of contractual obligations incurred by DCR as a result of entering into the service agreement with Oyate.

need for a multi-disciplinary approach that is not only inter-departmental, but is also integrated in nature. It is recognized that the Aboriginal community must also be partners in the response.

However, it has either i) not provided the adequate resources to achieve this; or, ii) did not emphasize the priority of this issue through a structure that will cause its various departments, agencies and its related Community Based Organizations (CBO) to work in a collaborative, effective manner to achieve the stated objective – the eradication of the sexual exploitation of children in the Province of Saskatchewan. In all probability it is a combination of these two factors.

It is with this view that the CAO presents this systemic report. It is obvious from our investigation into the Oyate Safe House that there are still significant issues that permeate the entire system of service delivery to 'at risk' children that continue to remain unresolved and unattended. As a former Oyate staff member succinctly put it; *"...They (the children) need the right people with the right attitude to make a difference. They don't need intervention not done right."*

If intervention begins when a child is two years, ten months old, and that same child progresses to become a child **"beyond 'at risk'"** and a sexually exploited child, it can be inferred that the intervention over the course of his/her life was inadequate and "not done right". We must learn from the review of the lives of these children and do everything possible to rectify the deficiencies that have created the problem. It is time for the protection of our sexually exploited children to begin and the rhetoric to stop. It is time for a "child first" focus to take prominence over all other interests.

Change is essential for the safety and well-being of sexually exploited children

The Department of Community Resources and the Oyate Board were aware of the concerns and issues at the Oyate Safe House during the period from March 26, 2003 to March 31, 2006. During the course of interviews, file reviews and through documentation provided to the CAO investigators, numerous documents described the situation at Oyate as having ongoing and unhealthy personnel concerns, questionable caseworker practices, reports that training was provided but not implemented, and a perceived resistance to offers of assistance. It remains that adequate intervention to remedy the concerns was not taken in spite of the mounting concerns and issues. Despite the intervention taken by DCR in limiting the number of placements of children, full funding continued to be provided. The Oyate Board's response, being simply to change Executive Directors and staff and offer more training, was equally ineffectual.

The CAO has concluded that DCR was aware that Oyate was not in compliance with the service agreement, but more importantly knew that the children being placed in Oyate were not receiving the services they deserved or to which they were entitled. Reducing the number of children that DCR placed at Oyate was a responsible action, but begs the question as to why placements continued until very recently. The Oyate Board was also aware of its contravention of the service agreement and had been asked by at least two of the four Safe House Directors to cease operations.

This is particularly concerning to the Children's Advocate since in its action plan, the Government states that it has made a wide array of resources available that are specifically designated for sexually exploited children. Why, then, were these resources not available for the children of the Oyate Safe House when DCR was well aware that the services required to address the needs and best interests of the children at Oyate were beyond the scope and ability of that facility and its staff? Was Oyate resistant to connecting with these services in the community or assistance from DCR?

Whatever the answer to these questions may be, the fact remains that the children residing at Oyate continued to be placed at risk. The question should also be asked concerning the availability of the resources stated by the Government to be dedicated through this strategy to sexually exploited children. For example, what happened to the integrated, intergovernmental and multi-disciplinary involvement of Saskatchewan Health through its mental health and addiction services? The Oyate Safe House often acted as a detoxification facility even though there were no staff trained to provide this service, nor was the facility equipped to handle such activity effectively.

In response to the 'adverse in interest' notice provided by the CAO to Oyate ataya WaKanyeja OwicaKiyapi Inc., Chief Marie Anne DayWalker-Pelletier made the following observations to the Children's Advocate:

"As the Board, we take ultimate responsibility for the overall operations of the Oyate Safe House. While we have many responses to each of the findings of the Children's Advocate Office, we feel we are unable to completely challenge any one of them since the conclusions either state that we did or did not comply and there is very little room to discuss the "gray" areas. At the end of the day, in such finite terms and in defining success by complete compliance with the terms of the service agreement, we will accept that we have "failed" these children.

The Oyate Safe House was the first of its kind in North America. The vision has always been one of healing and moving forward for the children. While this may seem simple it has been a very difficult task to achieve. We quickly found out that our home could not undo many years

of abuse in three weeks to a few months. Further, we found that we were expected to do much of it ourselves with very little assistance from the DCR and the service delivery agents in and around the City of Regina. We have reached out, however any time there was a new way of doing things proposed, especially if a dollar amount was attached to it, there was a deaf ear turned. Rather than giving back the program to DCR, we chose to continue on and assist the children the best way we could with the deficiencies we knew we were working with. We still held and continue to hold onto the belief that we are best positioned to assist these abused children.”⁷

Notwithstanding the existence of a service agreement that details services to be delivered to sexually exploited children, the CAO found that the DCR/Oyate service agreement fails to incorporate the vision of the facility, as described by the Board members interviewed during the course of this investigation. It was apparent from the CAO's investigation that the intent, purpose and vision for the Oyate Safe House were not shared by the Oyate Board and DCR.

Regardless of this fact, it appears that this “vision” exceeds the capability of a “safe house” as captured in the strategy and action plan of the Government communicated publicly through its various media releases. Until such time as both parties to the service agreement, and the Government itself, are able to concur on a common vision and provide these vulnerable children with the services to which they are legally entitled, Oyate will not be a successful resource in the community for these children.

Systemic Issues and Recommendations

During the course of the CAO investigation, several issues came to the attention of the CAO that were systemic in nature and beyond the scope and resources dedicated to the Oyate Safe House investigation. These issues are of significant concern to the interests and well-being of sexually exploited children in Saskatchewan, as they speak to the failure of the system to adequately address issues of this group of **beyond 'at risk'** children.

It also appears that an attempt to address some of these issues was recognized in the “*Saskatchewan's Strategy to Prevent the Sexual Abuse and Exploitation of Children Through the Sex Trade*”. However, as indicated previously, either sufficient resources were not allocated by Government to achieve the goal, or the conceived solution was not adequately implemented, or the commitment by Government to address the strategy diminished over time. In any event, the response to these children has not been adequate, or complete.

⁷ Letter from Chief Marie Anne Day Walker-Pelletier dated August 28, 2006

Nor, as evidenced through the Oyate investigation, has an integrated approach or network of services truly been realized to provide the necessary continuum of services this group of children demands. If the Oyate Safe House is any indication of the Government's response to this issue, facilities such as Oyate and the children they serve – are left to do the "best they can" with limited resources and options.

As the initial solutions to these problems can only be addressed through the Government of Saskatchewan and its various Departments and, through its delegated service model, in collaboration with community groups, organizations, enforcement agencies and the Aboriginal communities; and since the Children's Advocate, under the authority vested in his Office pursuant to section 12.6 (3)(b) of *The Ombudsman and Children's Advocate Act*:

"may advise any minister responsible for services to children on any matter relating to the interests and well-being of children who receive services from any department or agency of government",

the following recommendation is made:

Recommendation SYS.15(06)

That the Government of Saskatchewan restate its commitment and re-establish its priority to address the issues of sexually exploited children and the recommendations presented by the Special Committee in its final report, as initiated in its 2002 Saskatchewan's Strategy to Prevent the Sexual Abuse and Exploitation of Children Through the Sex Trade.

The CAO is aware of the existence of the Interdepartmental Steering Committee that is Co-Chaired by DCR and Saskatchewan Justice. In its response to the CAO following the 'adverse in interest' notice given by the CAO to DCR, the department notes:

"The work of the Interdepartmental Steering Committee is to coordinate the work of and across several provincial government departments to advance the Provincial Strategy in responding to the needs of sexually exploited children and youth."⁸

Upon further review of the material provided by DCR, the CAO has learned that this committee is an interdepartmental committee composed exclusively of government officials and, as such, does not go beyond the parameters of

⁸ DCR letter to Children's Advocate, dated August 24, 2006.

government itself. In the view of the Children's Advocate, this provides only part of the answer in addressing the needs of sexually exploited children.

As evidenced in the Oyate investigation, the Children's Advocate found that the Oyate Board and DCR did not share a common vision for the facility, nor service delivery. Change is necessary and a collaborative partnership is fundamental to the success of a program such as Oyate. Action – not words – must be put in place in order to achieve the desired outcome to support these children. In support of this position, reference is made to the work of the Commission of First Nations and Métis Peoples and Justice Reform which states in part:

“Change is necessary and it must be beyond a simple tinkering with the system. Fundamental change is needed if we are to have a future different from our past. To accomplish this kind of change the following must happen:

- a) *There must be full participation of the federal and provincial governments and First Nations and Métis people. The Royal Commission on Aboriginal Peoples and the Aboriginal Justice Implementation Commission made it clear that any policy affecting the interests of Aboriginal people or communities should never be created or put into practice without the involvement of these peoples or their communities. Similarly, when it comes to making decisions about First Nations and Métis children and youth, their full involvement is important to make sure they are no longer excluded. This will take strong leadership, setting differences aside and working together.”⁹*

In the opinion of the Children's Advocate, a collaborative partnership must be based on mutual respect, with a true commitment to building a future that addresses the needs, protection and well being of children. In other words, it must be a “means to and end” not simply an end in and of itself. On that premise, the Children's Advocate recommends:

Recommendation SYS.16(06)

- (a) That the Government expand the mandate and participation of its Interdepartmental Steering Committee to include: Aboriginal representation; experiential youth; enforcement agencies; community based organizations; and other relevant stakeholders.***

⁹ *Legacy of Hope: An Agenda for Change*. Final Report From The Commission on First Nations and Métis Peoples and Justice Reform. Volume 1. June 21, 2004. p.13

- (b) That this Committee be supported with the resources and priority to establish a process of collaborative partnership of culturally sensitive service delivery to meet the needs, best interests and well-being of sexually exploited children through government departments, agencies, Aboriginal communities and community based organizations on a provincial basis;***
- (c) That the Committee review its communication process for information sharing and implementation process between itself and the Regional Intervention Committees;***
- (d) That DCR be identified as having the responsibility of 'lead liaison department' in the coordination of action, planning and implementation of services stemming from this committee; and***
- (e) That DCR report its progress to the Children's Advocate by December 31, 2006 for inclusion in the CAO Annual Report.***

CAO Systemic Findings

The CAO Systemic Report is intended to be considered in conjunction with the main Investigation Report and will address the four systemic issues referred to in the Executive Summary of the CAO's Investigation Report related to the Oyate Safe House. Specifically, these systemic issues are:

1. The cumulative negative effect of leaving children in chronic situations of abuse and neglect over long periods of time and the long-lasting detrimental effects on their safety and well-being.
2. The need for a full continuum of services accessible to sexually exploited children regardless of age.
3. The need for child-focused, family-centred legislation that can be interpreted in a culturally sensitive way to ensure the best interests and well-being of children, particularly in case planning and service delivery for children in care.
4. The detrimental effect on services to sexually exploited children due to inappropriate language and attitudes in the service system.

Additionally, the CAO Investigation found a significant gap between the two parties bound by the Oyate Service Agreement regarding the expectations and vision for the Oyate Safe House. It was clear to the CAO investigators that there

is a significant need for government, its department(s) and the Aboriginal community to develop a shared, common vision and commitment for service delivery to these highly vulnerable children. Without a shared vision and, more importantly, a real commitment to a collaborative partnership that shares common service delivery principles, there will be continued failure. The victims of such failure will continue to be our children.

The Government's response to the Special Committee, i.e. "*Saskatchewan's Strategy to Prevent the Sexual Abuse and Exploitation of Children Through the Sex Trade*", states:

"The government will ensure that sexually exploited children receive proactive, protective services that are child-centred and culturally sensitive. This strategy will increase Aboriginal participation in the design, delivery and monitoring of protective services and other supports to children and families."

This statement appears to be in direct response to the Special Committee Report Recommendation #34, which states:

"The Committee recommends that the appropriate service delivery agencies of First Nations and Métis Government should be pivotally involved in all planning processes to assist children who have been sexually exploited on the street and should be lead partners in funding agreements to deliver services to these children."

The majority of the sexually exploited children in Saskatchewan are of Aboriginal descent. The position of First Nations communities and leadership is that the risks posed to Aboriginal children have too often been the result of decisions made outside of the control of their communities¹⁰.

It is asserted, that through these decisions, generations of First Nations children suffered severe and long-lasting threats to their well-being, both psychologically and physically. Alternate solutions are based on the belief that Aboriginal holistic approaches, in concert with the belief that the child, family and community's resiliency, are interdependent. As such, culturally based family interventions must be coupled with culturally based community development approaches in order to redress the challenges presented to the safety of Aboriginal children in any intervention [Blackstock & Trocme (2004)].

¹⁰ Blackstock, C., & Trocme, N. (2004). *Community Based Child Welfare for Aboriginal Children: Supporting Resilience through Structural Change*. Available online at: <http://www.cecw-cepb.ca/DocsEng/communityBasedCWAboriginalChildren.pdf>

In response to the evolution of these concepts and processes, governments have adopted what has become known as the “delegated model of service delivery”. This delegated model is seen as an interim measure designed to meet the immediate and pressing needs of First Nations children and families while political organizations seek self-governance and total autonomy over the delivery of child welfare services¹¹. But as the struggle for definitions and clarifications continue, the children and families in crisis continue to suffer.

In the *Final Report from The Commission of First Nations and Métis People's and Justice Reform*, similar concerns were voiced and a call for collaborative partnerships expressed:

“First Nations and Métis leaders encourage policies that recognize the importance of cooperation and partnerships. They see cooperation and partnerships as a basis for successful collective action.”¹²

There cannot be a better example to illustrate this point than the plight of sexually exploited children. Both First Nations and Government need to put action to their words and come to a common vision for a collaborative partnership that puts children first and rhetoric last. There needs to be an action plan developed that includes realistic, incremental steps that take into account the capacity and ability of the Aboriginal community to deliver services to sexually exploited children. This must continue to be assessed in a manner that keeps the best interests and well being of the child as the paramount consideration. We cannot continue to draw lines in the sand that turn into crevices, into which our children fall.

In the *Final Report from The Commission of First Nations and Métis People's and Justice Reform*, Recommendation 8.10 states:

“This Commission recommends that all governments transcend jurisdictions in the best interest of our children and our collective futures by creating a Declaration that addresses relationships between jurisdictions and creates long-term Saskatchewan First Nations and Métis Children and Youth Action Plans.”

The First Nations Child & Family Caring Society of Canada in *WEN:DE We Are Coming To The Light of Day*, states:

¹¹ (Bennet & Blackstock, 2002). Bennet, M., & Blackstock, C. (2002). *First Nations Child and Family Services and Indigenous Knowledge as a Framework for Research, Policy and Practice*. Centre for Excellence Child Welfare Available online at: <http://www.cecw-cepb.ca/DocsEng/FNPresWaterloo2002.pdf>.

¹² *Legacy of Hope: An Agenda for Change*. Final Report From The Commission on First Nations and Métis Peoples and Justice Reform. Volume 1. June 21, 2004. p.I-3

*"The needs of these children cannot be placed on a shelf while the various levels of government and departments argue over budgetary constraints and differences in the interpretation of existing agreements"*¹³

All of this is in support of a "child first" principle adopted following the death of a young First Nations child named Jordan. In honour of his four short years of life, numerous organizations are calling upon all provincial and territorial governments as well as the government of Canada to:

"Immediately adopt a child first principle to resolving jurisdictional disputes involving the care of First Nations children."

In this way, the needs of the child get met first while still allowing for the jurisdictional dispute to be resolved.¹⁴

As Arlene Julé, former Co-Chair of *The Special Committee to Prevent the Abuse and Exploitation of Children Through the Sex Trade*, succinctly stated in discussion with the Children's Advocate during the preparation of this report:

*"As a society and as governments, we need to ask ourselves – 'Are our children important?' If they are not, we should continue to do nothing."*¹⁵

Recommendation SYS.17(06)

(a) That the expanded provincial inter-departmental, multi-disciplinary and inter-agency committee envisioned in CAO Recommendation SYS.16(06) be charged with the task of developing a service delivery model for Safe Houses with shared service delivery principles to address the complex needs of sexually exploited children that are culturally sensitive, but keep the best interests of the child as the principle of paramount importance; and

(b) That this committee develop the service delivery model of Safe Houses from a provincial perspective with a view to networking, sharing experiences, information and learning.

¹³ WEN:DE: *We Are Coming To The Light of Day*. First Nations Child & Family Caring Society of Canada. 2005. p.89.<http://www.fncfcs.com/docs/wendeReport.pdf>

¹⁴ Joint Declaration of Support for Jordan's Principle.www.fncfcs.com/jordansPrinciple.html

¹⁵ Personal meeting, August 9, 2006

Systemic Issue One

The cumulative negative effect of leaving children in chronic situations of abuse and neglect over long periods of time and the long-lasting detrimental effects on their safety and well-being.

Sexually exploited children are a high needs, high risk group. This group of children were described to the CAO as being **beyond 'at risk'**, meaning that they need special attention and services delivered with an appropriate and respectful attitude, through a service delivery system that is sensitive, purposeful and cognizant that these children are first and foremost, victims.

The CAO investigation found the overwhelming majority of these sexually exploited children to be Aboriginal. They frequently had historical involvement with the child protection and young offender systems. These children were found to be intravenous and multiple drug users, some of whom had contracted Hepatitis C and one who contracted HIV.

There is no doubt that sexually exploited children are difficult to identify and serve. Ellis' research on sexually exploited children in Regina (2004) found that much of the sexual exploitation of children occurs underground. Indeed, six or 14% of the residents of Oyate were either introduced or sexually exploited through telephone and internet chat rooms. Moyer and Basic report that Social Workers may identify them through child protection involvement, sometimes by knowledge of their family's generational involvement and also through police intervention, although they suggest that police numbers are under reported. Their report indicates that the Regina Police Service (RPS) documented 11 children under the age of 15 in 2000. In June 2006, the RPS, as part of the CAO investigation of Oyate Safe House, reported knowledge of 35 commercially sexually exploited children under the age of fifteen to the Children's Advocate. These numbers indicate a disturbing growth rate of reported sexually exploited children in Regina.

Thus, the problems associated with providing services to these children are complex and require a collaborative effort to ensure that the resources dedicated, and the approaches taken, have the best chance for success. Appropriate and timely interventions have the capacity to change the outcome later in the child's life. During the course of its investigation, the CAO found repeated instances where DCR had ongoing involvement in a child's life from a very early age, but interventions appear not to have been effective.

DCR policy states that interventions are to be "as complete and as intensive as necessary...to bring about needed change to reduce risks and ensure the protection of the child" (*Family-Centred Services Manual*, Chapter 1, Section 1, p. 2). The fact that DCR became involved in the lives of these children in early

childhood and that these children continued to present themselves as 'children at risk' during their adolescence raises questions about the intervention strategies that allowed this situation to continue to occur with children continuing to revolve in and out of care.

"Saskatchewan's Strategy to Prevent the Sexual Abuse and Exploitation of Children Through the Sex Trade" stated very clearly:

"The government will ensure that sexually exploited children receive proactive, protective services that are child-centred and culturally sensitive. This strategy will increase Aboriginal participation in the design, delivery and monitoring of protective services and other supports to children and families."¹⁶

This represents to the CAO a core problem and systemic issue. The CAO has previously recommended that management reviews beyond the supervisory level take place when there are repeated instances of child protection involvement in a child's life. The recommendation referred to is **CDR 42 (99,00)**¹⁷. DCR has refused to implement this recommendation, claiming it has adequate 'safeguards' in place to ensure the protection of children in these circumstances. The CAO does not agree with the position of the Department, as our investigations, Child Death and Critical Injury Reviews continue to identify this as a major deficiency within DCR practice, if not policy.

These CAO investigations point to situations of chronic child neglect and/or abuse in the family home with repeated child protection referrals, which have been treated as isolated occurrences by DCR front-line child protection workers and their supervisors. In circumstances where the child's complete history of involvement with DCR has not been considered in a cumulative context and where the child continues to be placed at risk within the context of the family unit, another level of scrutiny and consideration is essential.

In the opinion of the Children's Advocate, a review at a management, rather than a supervisory level, will bring a different perspective as well as different resource options to the child's aid. There are more decision options available to the management level within DCR, than are available readily at a supervisory level. Moreover, the commitment made by the Government as part of its 2002 action plan regarding protective services that are "child-centred" seem confused in their application.

¹⁶ Government of Saskatchewan. Executive Council, Media Services.
<http://www.gov.sk.ca/newsrel/releases/2002/03/22-183-attachment.html>

¹⁷ Saskatchewan Children's Advocate. 2005 Annual Report. p.30; p.33

Both the *Family-Centred Services Policy and Procedures Manual* of DCR, and the governing legislation, *The Child and Family Services Act*, fail to emphasize a child focus, let alone a “child centred” philosophy. While the CAO concedes that family-centred case management maintains an important position and is a relevant consideration in child protection cases, it should not be considered at the cost of the child's safety and entitlement to protection. Nor can it be used as a singular solution.

In the opinion of the Children's Advocate, reunification of a family “at all costs” is a philosophy that runs contrary to the best interests and well being of a child requiring child protection services, as it presumes that the best interests and well being of the child will be served, in all instances, through a placement with biological parents or extended family. While one might argue that a family focus naturally includes a child focus, numerous child death reviews conducted by the CAO demonstrate that children who are reunited with their family, in circumstances where ongoing violence persists, ultimately pay with their lives.

Decisions need to be made in the best interests and well-being of the child to ensure the child's ongoing safety and protection. This is particularly true when there is a conflict between the child's best interests and that of the family, i.e. a question of repeated abuse and neglect.

The CAO has reported this circumstance previously in the course of its Child Death Reviews. Now, a different and equally important example comes from the CAO investigation of the Oyate Safe House. Of the 39 children at Oyate who had involvement with DCR, the average initial age from when protection services commenced was 2 years, 10 months of age. The remaining five children did not have any involvement with the Department of Community Resources, Family Service Division. As such, of the children reviewed during the CAO investigation, 88% lived in and out of homes characterized by abuse and neglect for the majority of their lives. It is difficult to ascertain how, or why, DCR allowed these children to remain in these ‘at risk’ environments over so many years. This is particularly disturbing in the context of the Government's commitment to provide protective services that are more “child-centred”¹⁸.

Mr. Peter Prebble, Co-Chair of the Special Committee in discussions with the Children's Advocate stated that while the government had responded substantially to a number of the Special Committee's recommendations, there was still work to be done. In his view, one of the most important elements still outstanding and requiring full government implementation to address sexual exploitation was the need for a consistent Department staff person to be

¹⁸ Government of Saskatchewan. Executive Council, Media Services.
<http://www.gov.sk.ca/newsrel/releases/2002/03/22-183-attachment.html>

assigned to each sexually exploited child so that there will be someone within government watching over the progress of each sexually exploited child.

This comment relates to Recommendation 26 of the Special Committee that states:

“The Committee recommends that the Government of Saskatchewan should ensure that follow-up caseworkers are assigned to all children who reside in either the voluntary or protective care safe houses. They should also be assigned to children identified by street outreach workers of being at-risk to enter the sex-trade.”

A specifically designated caseworker, specializing in working with sexually exploited children would assist in meeting the complex needs of these vulnerable children.

To the public, child abuse and neglect that occurs within a family's home is largely unknown until we begin to see those children on our streets in their early teen years. The CAO believes that failing to attend to the exposure of children to chronic abuse and neglect within their home not only places them at risk in their immediate situation, but also jeopardizes their safety in the future. In addition, it is in contravention of the child's right to protection as outlined in the United Nations *Convention of the Rights of the Child* – a Convention the Saskatchewan Government has strongly endorsed. Article 19 of the UN *CRC* states that:

“ 1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.”

Permanency Planning

This also speaks to the need for permanency in a child's life. While immediate family may be the preferred option, it cannot supersede the child's right to safety and well being. There are a number of options along a continuum that experts have used to define permanency planning in the context of child protection that result in the safety, protection and well being of the child.

In its *Children and Youth in Care Review: Listen to Their Voices* released in 2000, the Children's Advocate referenced the following definitions of permanency planning:

"Permanency planning is the systematic process of carrying out, within a brief, time-limited period, a set of goal-oriented activities designed to help children live in families that offer continuity of relationships with nurturing parents or caretakers, and the opportunity to establish life-time relationships." (Fein, Maluccio, Hamilton, & Ward, 1984)

"Permanency planning is more than just good casework. Done well, it includes an integrated system of review procedures, a full range of preventive and in-home services, case management and case planning that are culturally appropriate, and the development and empowering of staff (Shaw, 1986). Its purpose...is to minimize the length of time that a child will live in a setting that lacks the promise of being permanent. Placement choices may include maintaining the child with the biological parents or placing her with relatives, permanent foster parents, adoptive parents, or foster/adoptive parents." (Cohen & Westhues, 1990)¹⁹

Effective permanency planning is recognized as having several positive outcomes:

- "A belief that stability and continuity of relationships promote a child's growth and development;
- Systemic planning within specific time frames for children who are at risk of placement outside the home or in foster care;
- A case management process that emphasizes regular reviews, contracting, and decision making, with active participation of parents, children and other key persons;
- Active collaboration among key community agencies, child care personnel, lawyers, judges and others working with children and their parents (Pecora 1992); and

¹⁹ Children and Youth in Care Review pg 42

- Active participation of the family, child and the community in planning.”²⁰

Over the last five years, in each *Child Death Summary Report* and in the 2005 *CAO Annual Report*, the CAO identified concerns regarding the impact on a child who is exposed to continuing violence and neglect within his/her home. The CAO has reported on a significant number of deaths of children who died, while residing in homes characterized by abuse and neglect, while being left in families characterized by ongoing violence, alcohol and substance abuse, past victimization, unemployment and poverty. Now, with the additional findings within the context of its Oyate Safe House investigation, the CAO submits that it is time for better solutions to this issue to be found.

Recommendation SYS.18(06)

That the Department of Community Resources develop a new child-focused definition of permanency planning that is neutrally stated and consistent with the best interests of children, having regard to the following elements:

- (a) An integrated system of review procedures;***
- (b) A full range of preventive and in-home services;***
- (c) Case management and case planning that are culturally appropriate;***
- (d) Strategies to minimize the length of time that a child will live in a setting that lacks the promise of being permanent;***
- (e) The full spectrum of permanency planning including placing the child with biological parents, relatives, permanent foster parents, adoptive parents, or foster/prospective adoptive parents;***
- (f) Active collaboration among key community agencies; and***
- (g) Active participation of the family, child and the community in planning.***

²⁰ Permanency Planning Trend Analysis and Recommendations Report of the Western Province's Children's Advocates Working Group (Updated 2004) pg 18

Recommendation SYS.19(06)

That the Department of Community Resources develop an action plan regarding permanency planning, having regard to the following requirements:

- (a) That the action plan recognize the need for thorough and timely assessments, which identify both the risk to the child and the existing parenting capacity;***
- (b) That this comprehensive assessment lead to inclusive, intensive and timely intervention and permanency planning;***
- (c) That this action plan be applied across all cases involving child protection issues, including those of sexual exploitation;***
- (d) That the planning be based on the actual situation of the child, including her/his personal, family and social situation; and***
- (e) That DCR report its progress to the Children's Advocate by December 31, 2006 for inclusion in the CAO Annual Report and provide a copy of its definition and final action plan on permanency planning as soon as is practicable.***

The CAO has repeatedly identified that child welfare policy is needed to ensure that cases are identified and reviewed to determine if more intrusive intervention is necessary to address persisting child protection concerns.

DCR has previously notified the CAO that it does not accept recommendation CDR.42 (99, 00). DCR has advised that a sufficient number of policy standards are in place to regularly review and assess cases at both the front-line and supervisory level. However, the CAO continues to identify a growing number of serious instances where the application of this existing policy by DCR has failed to protect children adequately in its practice.

Once again, the CAO's review of the DCR history with regard to the residents of the Oyate Safe House identified significant concerns that the practice applied in the majority of these cases did not provide these children with the level of safety and intervention that they are entitled to, in accordance with DCR policy and relevant legislation. The CAO investigation found that DCR's current policy of review did not result in practice decisions that provided an appropriate level of intervention in relation to these children's safety, well-being and best interests.

In an effort to safeguard children from lingering in care, both legislation and policy identify 24 cumulative months as a maximum time period

prior to initiating permanency planning. The *Children's Services Manual* directs that if a child has been in care for 18 consecutive months a review of the family case plan by the Regional Director or designate must occur. Surely, when there is a family that is being referred for chronic abuse and neglect concerns repeatedly and where risk to the child is continually occurring, the same safeguard of review and accountability at the Regional Director's or designate level ought to be invoked.

"Chronic cases with multiple reports require special attention in differential response. As in traditional child protection response, differential response begins with a specific report of child maltreatment. This system of response to a current situation or "incident" tends to downplay the importance of a pattern of chronic maltreatment that may cause cumulative harm to children." (National Child Welfare Resource Centre for Family Centred Practice, 2002)

The Children's Advocate is of the opinion that this history of concerns regarding assessment and intervention strengthens the need for Recommendation CDR.42 (99, 00) to be implemented.

As such, the Children's Advocate is once again forwarding the following recommendation with more specific language and direction for consideration by DCR:

Recommendation SYS.20(06) [This recommendation replaces the current CDR.42 (99,00)]

- (a) That the Department of Community Resources undertake to regularly identify and review, at a management level (i.e. beyond the supervisory level), those cases where children are repeatedly subjected to neglect or abuse over a significant period of time and where the Department of Community Resources has received repeated referrals of child protection issues;***

- (b) That this review be intended to ensure that interventions are "as complete and as intensive as necessary, reflecting the best interests and well-being of the child, to bring about needed change to reduce risks and ensure the ongoing protection and safety of the child"; and***

(c) That this review be conducted in the context of a permanency plan for the child that includes the elements outlined in Recommendation SYS.18(06).

Systemic Issue Two

The need for a full continuum of services accessible to sexually exploited children regardless of age.

In 2000, the Children's Advocate, as part of a presentation to the Special Committee, raised the need to clarify the definition of a "child" in provincial legislation and suggested that the definition be consistent with the international standard that defines a child as a person under the age of 18.²¹

In 2001, *The Special Committee to Prevent the Abuse and Exploitation of Children Through the Sex Trade* (Special Committee) concluded that while there were some services available, there was a lack of timely service options for these children including addiction services, treatment options, counseling, safe housing, and outreach services to all children under 18, including the very young. In its report, the Special Committee recommended a timely and caring continuum of services to children under the age of 18.

In 2002, the Government of Saskatchewan released its action plan, *"Saskatchewan's Strategy to Prevent the Sexual Abuse and Exploitation of Children Through the Sex Trade"*. This strategy appears to recognize the need for a continuum of services that are inter-departmental, multi-disciplinary and integrated in nature. The strategy does not discuss limiting these services to a particular youth age group – but speaks to these services being readily available to all sexually exploited children.

The CAO investigation of the Oyate Safe House also identified the need for a full continuum of accessible services for this high-risk group of children. Collateral interviews identified the lack of services provided to sexually exploited children under 18, particularly services for children in the 16 and 17 year old age category. There was a demonstrated need shown by the placement of children of this age group at Oyate, even though they exceeded the defined age category, as stipulated in the signed Service Agreement.

Obviously, then, there is a need for service solutions for sexually exploited children, regardless of age. The responsibility of this service clearly falls within the mandate and responsibility of DCR. Therefore, the CAO recommends that

²¹ Deborah Parker-Loewen, Children's Advocate of Saskatchewan Presentation to The Special Committee to Prevent the Abuse and Exploitation of Children Through the Sex Trade 2000

the government fully implement **Recommendation 17 of the Special Committee:**

“that every child who is on the street and at risk of sexual abuse or suffering sexual abuse should be guaranteed the right to services in a timely and coordinated way including a safe place to stay, medical care, addictions treatment, counseling for abuse, help in making the return to school and lending assistance to children to make effective steps towards a full recovery.”

In order to ensure that DCR is able to provide services to sexually exploited children, who are 16 and 17 years of age, it would be beneficial to amend *The Child and Family Services Act* to elevate the age jurisdiction up to age 18 from the current ceiling of age 16.

A number of Canadian jurisdictions already provide child welfare services to youth up to the age of 18. For example, Alberta,²² Manitoba,²³ New Brunswick,²⁴ Quebec,²⁵ and the Yukon,²⁶ have all set age 18 as the limit of its age jurisdiction, while British Columbia²⁷ has set an upward age jurisdiction for child protection services at age 19.

In Saskatchewan, *The Age of Majority Act*²⁸ is consistent with this definition – that is persons under the age of 18 years are considered to be children. However, in the application of services through *The Child and Family Services Act*, there is a contrary legislative approach, as explicitly set out in the definition of “children”, which excludes those persons, who are 16 and 17 years of age²⁹. As found throughout the Oyate investigation, this is not only confusing, but also devastating to those children considered to be children in all other respects, except for purposes of claiming and receiving entitlements under child protection services outlined in *The Child and Family Services Act*. This upward age limitation seriously restricts the options available to this **beyond “at risk”** group of children with no other means of support.

A change in the definition of “child” in section 2(1) (d) of *The Child and Family Services Act* would also be consistent with the definition of “child” in, and reflect

²² *The Child, Youth and Family Enhancement Act*, S.A. 2003, c.16, s. 1(d).

²³ *The Child and Family Services Act*, S.M. 1985-86, c.8, as amended, s. 1.

²⁴ *The Family Services Act*, S.N.B. 1980, c.F-2.2, as amended, s. 1.

²⁵ *The Youth Protection Act*, R.S.Q., c.P-34.1, as amended, s. 1(c).

²⁶ *The Children's Act*, R.S.Y. 2002, c.31, as amended, s.107.

²⁷ *The Child, Family and Community Service Act*, R.S.B.C. 1996, c.46, as amended, s. 1(1).

²⁸ R.S.S. 1978, c.A-6, as amended by S.S. 2004, c.L-16.1.

²⁹ While it is acknowledged that section 18 of the Saskatchewan *CFSA* provides police officers with the authority to apprehend 16 and 17 year old persons who may be in need of protection, this authority is not of general application and is limited to those cases where “*the director considers the circumstances to be of an exceptional nature.*”

Saskatchewan's stated endorsement of, Article 1 of the United Nations *Convention on the Rights of the Child*, which states:

"For the purposes of the present Convention, a child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier."

The majority of the sexually exploited children in the CAO investigation also suffered from substance abuse and those interviewed indicated a desire to quit drugs, as well as a need for more programming and treatment in the area of addictions. As reported in the CAO investigation, many children came from homes with severe parental substance abuse, were exposed to domestic violence, and had been subjected to physical and sexual abuse. While the CAO review did not address alternative income solutions to replace income garnered through commercial sexual exploitation, it is noted that most children were either not in school or were having difficulty in attending school and acquiring an education.

Recommendation SYS.21(06)

(a) That the interdepartmental, multi-disciplinary and inter-agency committee outlined in Recommendation SYS.16(06) with DCR as lead liaison, develop a continuum of service strategy that is consistent with, and complimentary to, the Government action strategy released in 2002³⁰, including safe houses, longer term housing for sexually exploited children, educational support, mental health, addiction services and health services, counseling and therapeutic resources, regardless of age or gender; and

(b) That this strategy have at its core:

- i) a policy that speaks to the 'best interests and well being of the child' as being the paramount consideration;***
- ii) that the service strategy be child-focused, family centred and culturally sensitive;***
- iii) that specific strategies of case planning and management, based on risk assessments regarding the family, extended family and other living environmental conditions, be initiated***

³⁰ Government of Saskatchewan. Executive Council, Media Services.
<http://www.gov.sk.ca/newsrel/releases/2002/03/22-183-attachment.html>

to protect the child from further sexual exploitation, abuse or harm; and

iv) that the safety parameters utilized in other residential care facilities concerning age appropriate and gender mixing, be incorporated.

Recommendation SYS.22(06)

(a) That the definition of “child” in section 2(1)(d) of The Child and Family Services Act be amended for, among other reasons, consistency with the definition of “child” as set out in both Saskatchewan’s The Age of Majority Act and Article 1 of the UNCRC; and

(b) That DCR report its progress to the Children’s Advocate regarding Recommendations SYS.21(06) and SYS.22(06) by December 31, 2006 for inclusion in the CAO Annual Report and prepare the legislative amendments as soon as is practicable.

Systemic Issue Three

The need for child-focused and family-centred legislation that can be interpreted in a culturally sensitive manner to ensure the best interests and well-being of children, particularly in case planning and service delivery for children in care.

In its “Saskatchewan’s Strategy to Prevent the Sexual Abuse and Exploitation of Children Through the Sex Trade”, the Government of Saskatchewan recognized the value of legislative changes as one tool to support and bring about change.

To this end, it introduced three pieces of legislation³¹ to support its strategy regarding the issue of sexual exploitation of children that it felt would provide a two pronged approach to address the issue. To the layperson, *The Highway Traffic Act* would appear to have very little to do with the sexual exploitation of children. But amended to give more tools to police to deal with perpetrators, it became an additional tool of enforcement. The CAO believes that the language of legislation often drives behaviour of those who must use it, interpret it and enforce it. Consequently, it is important that the language used is consistent from legislation through to front-line application.

³¹ *The Emergency Protection for Victims of Child Sexual Exploitation and Abuse Act*; amendments to *The Highway Traffic Act*; and amendments to *The Victims of Crime Act*.

The Government introduced amendments to *The Child and Family Services Act* in the year 2000 that were thought to capture the issue of sexual exploitation. In the view of the Children's Advocate, these amendments do not, however, adequately address the issues associated with the sexual exploitation of children.

While policy within DCR has been viewed as 'adequate' to deal with significant issues of concern to children, it is the opinion of the CAO that legislative language drives the development and philosophy of policies within government departments. Consequently, some of the responsibility for failure of service delivery lies within the deficits of the legislative language itself, as it will drive decisions on the front lines because it defines the parameters of intervention options.

Upon review of the relevant legislation, the CAO has confirmed this to be the case. The legislative language used in section 3 of *The Child and Family Services Act*³² does not make any explicit reference to a 'child focus' or the child's "best interests". Instead, section 3 stipulates the following:

"The purpose of this Act is to promote the well-being of children in need of protection by offering, wherever appropriate, services that are designed to maintain, support and preserve the family in the least disruptive manner."

This is inconsistent with the Government's commitment, as outlined in its strategy to provide protective services to sexually exploited children that are "child-centred"³³. This Statement of Purpose provision in the Saskatchewan legislation presumes that the well-being of children will be best served through services that support family preservation in the least disruptive manner. It is the view of the Children's Advocate that the imposition of a family-centred philosophy, without a clear statement of "the best interests" of the child as being the paramount consideration, is out of step with most child protection legislation in other Canadian jurisdictions³⁴. Consequently, it is the opinion of the CAO that this language needs revision to provide a philosophy promoting the "best interests, protection, safety, and well being of children"³⁵.

³² *The Child and Family Services Act*, S.S. 1989-90, as amended, Chapter C-7.2, s. 3.

³³ Saskatchewan Government. Executive Council, Media Services.
<http://www.gov.sk.ca/newsrel/releases/2002/03/22-183-attachment.html>

³⁴ For example, both the Ontario and Nunavut child protection statutes state that their "paramount" purpose or objective "is to promote the best interests, protection and well-being of children." The child protection legislation of British Columbia establishes that it "must be interpreted and administered so that the safety and well-being of children are the paramount considerations." Manitoba, Newfoundland, Nova Scotia, Prince Edward Island, and the Yukon all stipulate that "the paramount consideration" is "the best interests of the child." There is a further stipulation in the Yukon legislation that "if the rights or wishes of a parent or other person and the child conflict, the best interests of the child shall prevail.")

³⁵ Ibid

In this context, it is also important to note that Article 3(1) of the UNCRC states as follows:

“In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.”

The United Nations Committee on the Rights of the Child Thirty-fourth session Concluding Observations, dated October 27, 2003, provide the following comments concerning the best interests of the child regarding this very point:

Best interests of the child

24. The Committee values the fact that the State party holds the principle of the best interests of the child to be of vital importance in the development of all legislation, programmes and policies concerning children and is aware of the progress made in this respect. However, the Committee remains concerned that the principle that primary consideration should be given to the best interests of the child is still not adequately defined and reflected in some legislation, court decisions and policies affecting certain children, especially those facing situations of divorce, custody and deportation, as well as Aboriginal children. Furthermore, the Committee is concerned that there is insufficient research and training for professionals in this respect.

25. The Committee recommends that the principle of “best interests of the child” contained in article 3 be appropriately analysed and objectively implemented with regard to individual and groups of children in various situations (e.g. Aboriginal children) and integrated in all reviews of legislation concerning children, legal procedures in courts, as well as in judicial and administrative decisions and in projects, programmes and services that have an impact on children. The Committee encourages the State party to ensure that research and educational programmes for professionals dealing with children are reinforced and that article 3 of the Convention is fully understood, and that this principle is effectively implemented.

Experience has indicated that decisive intervention into the lives of children in need of protection is often hampered by the emphasis placed on the autonomy of the family. Frequently, decisions appear to be made which give the interests and desires of parents an inappropriate priority over the best interests of their children. This parental autonomy approach can be deleterious at both the front-line and judicial levels and appears to have led, in the past, to government and judicial intervention, which can be described as “too little, too late”. As referenced

previously, the annals of child deaths and severe child injuries are a tragic and unacceptable legacy that has resulted from the imposition of a singular family-centred philosophy at the expense of the well-being and best interests of vulnerable and previously victimized children³⁶.

Reference has already been made to the significant number of Child Death and Critical Injury Reviews conducted by the CAO that indicate a pattern by front line workers of returning children to families as a primary consideration even when the risk to the child had not sufficiently diminished. It is the opinion of the Children's Advocate that this practice is driven by legislative language. Thus, it is time to change the language used.

To accomplish this, it is necessary to amend *The Child and Family Services Act* to shift the balance to more clearly emphasize the child-focused entitlements of children, including the right to early and decisive intervention into their lives, while maintaining the importance of a family-centred and culturally sensitive approach. This is particularly important in view of the positive benefits derived from a strong commitment to achieving permanency in the child's life. The best way to achieve this is through the introduction into Saskatchewan's *Child and Family Services Act* of a list of guiding principles, a list of service delivery principles and a code of children's rights and entitlements – an approach which has been taken in many other jurisdictions.

In the guiding principles, there would be a catalogue of relevant considerations, which would be read subject to the paramount purpose of the "best interests" of the child. This is the approach taken in British Columbia, Manitoba, Newfoundland, Nunavut, Ontario and Prince Edward Island.³⁷

While many of the Provincial and Territorial legislated guiding principles also subsume both service delivery principles and explicit rights and entitlements of children, there are some that enumerate a separate set of service delivery principles, with the common objective of reinforcing the government's obligations to provide services in a respectful and culturally sensitive manner that optimizes

³⁶ This is true for many other Canadian jurisdictions (see the British Columbia Gove Inquiry Report and Ontario's Hatton Report, where Judge Gove and Justice Hatton respectively found that the pendulum had swung too far in the direction of parental rights, thereby causing the necessary child-focus and pre-eminence of the child's best interests to be lost) Ministry of Social Services, *Matthew's Story Report of the Gove Inquiry into Child Protection in British Columbia* by Gove, Thomas J. (Judge))British Columbia: Ministry of Social Services 1995); and Ontario Ministry of Community and Social Services, *Report of the Panel of Experts on Child Protection* by Hatton, M.J. (Madam Justice) et al., (Toronto: Ontario Ministry of Community and Social Services 1998).

³⁷ *The Child, Family and Community Service Act*, R.S.B.C. 1996, c.46, as amended, s. 2; *The Child and Family Services Act*, S.M. 1985-86, as amended, Declaration of Principles; *The Child, Youth and Family Services Act*, S.N. 1998, c.C-12.1, as amended, s. 7; *The Child and Family Services Act*, R.S.N.W.T. 1997, c.13, as amended, s. 2; *The Child and Family Services Act*, R.S.O. 1990, c.C.11, as amended, s. 1(2); *The Child Protection Act*, S.P.E.I. 2000, c.3, as amended, Preamble.

maximum participation and representation for both children and their families. This is the approach taken in Newfoundland, Ontario and Quebec.³⁸ As well, the British Columbia *Child, Family and Community Services Act*³⁹ sets out a series of instructive service delivery principles that are culturally sensitive and reflect the need for active participation by aboriginal communities in respect of aboriginal families and children.

Given the experience of many of those children placed in DCR care and who resided at Oyate, it would also be important to introduce a listing of explicit rights and entitlements for children in the care of government, having particular regard to the importance of the UN *CRC*, with its emphasis on treating children and youth as rights holders, including the right to state protection and safety from harm. This approach has been taken in British Columbia, Ontario and Quebec⁴⁰.

The CAO has reported on a number of incidents in its Child Death Reviews whereby the current family-centred philosophy, with an insufficient child focus, has had devastating and life limiting effects on children. In the view of the Children's Advocate, the loss of the life of one child is too many – but we have seen too many deaths and critical injuries that reflect this harmful philosophy of reducing children to the status of 'family chattels' to be fought over.

In its investigation into the Oyate Safe House, the CAO found a similar pattern of repeated return to abusive and harmful family environments that contributed to the current lifestyle of many of the children interviewed, leaving them with a view of hopelessness and despair.

Often, decisions regarding the child are made in isolation, without the child or his/her input, with an underlying philosophy that values family reunification and cultural consideration over the needs, protection and well-being of the child in question. Unfortunately, the ultimate price is most often paid by the child. If the behaviour of the family, and therefore the living environment, has not changed – the cycle simply continues and becomes inter-generational in nature.

Recommendation SYS.23(06)

(a) That proposed amendments to The Child and Family Services Act be introduced by the Minister of DCR to codify a list of guiding principles, which can be used at all decision-making points under

³⁸ See *The Child, Youth and Family Services Act*, S.N. 1998, c.C-12.1, as amended, s. 8; *The Child and Family Services Act*, R.S.O. 1990, c.C.11, as amended, s. 2; *The Youth Protection Act*, R.S.Q., c.P.-34, as amended, SS. 2,4.

³⁹ R.S.B.C. 1996, c.46, as amended, s. 3.

⁴⁰ See *The Child, Family and Community Services Act*, R.S.B.C. 1996, c.46, as amended, s.70; *The Child and Family Services Act*, R.S.O. 1990, c.C.11, as amended, Part V; *The Youth Protection Act*, R.S.Q., c.P.-34, as amended, Chapter II.

- the legislation, with the most important principle being “the paramount purpose of the Act shall be to promote the best interests, protection, safety, and well-being of children”;***
- (b) That proposed amendments to The Child and Family Services Act be introduced by the Minister of DCR to codify a list of service delivery principles with the common objective of reinforcing the government's obligations to provide services in a respectful and culturally sensitive manner; that reflect the need for active participation and planning by aboriginal communities in respect of aboriginal families and children; and that optimize maximum participation and representation for both children and their families; and***
- (c) That further proposed amendments to The Child and Family Services Act be introduced by the Minister of DCR to codify the rights and entitlements of children in the care of DCR. This may be in the form of a Preamble, Declaration of Principles, or preferably, a new Part of The CFSA, ideally incorporating the principles set out in the United Nations Convention on the Rights of the Child.***

To ensure the proposed changes are directly linked to the interpretation at the front line of child protection, the Children's Advocate recommends:

Recommendation SYS.24(06)

- (a) That the Department of Community Resources (DCR) provide a more prominent child focus to its family-centred policy manual (i.e. Family Centred Services Policy and Procedures Manual), and incorporate the phrase, “child focused, family-centred and culturally sensitive”, in order to achieve the right balance among these various considerations;***
- (b) That DCR give paramount consideration to promoting the child's best interests in accordance with Article 3(1) of the United Nations Convention on the Rights of the Child and the child welfare legislation in most other provincial jurisdictions; and***
- (c) That DCR report its progress on Recommendations SYS.23(06) and SYS.24(06) to the Children's Advocate by December 31, 2006 for inclusion in the CAO Annual Report and prepare the legislative amendments as soon as is practicable.***

Systemic Issue Four

The detrimental effect on services to sexually exploited children due to inappropriate language and attitudes in the service system.

The Special Committee made significant gains in how we perceive sexually exploited children. The conclusion was these children are victims of sex offences committed against them and not children who are committing crimes. The CAO review of DCR files of the children placed at the Oyate Safe House raised concern over the language consistently used in reference to these children, who are society's most vulnerable victims. In the files reviewed, language repeatedly used in reference to these children were "prostituting", "working", "hooking", "soliciting", "turning tricks" as well as other derogatory, stereotypical, and misleading terms.

In conjunction with community awareness and education, it is imperative that DCR and its service providers be mandated to take training in the importance of language in working with sexually exploited children.

In his response to the CAO's 'adverse in interest notice', the Deputy Minister of DCR disagreed with the premise of the recommendation made with respect to the language used by DCR workers in documenting activity within their case files, stating:

*"Please be aware that upon our review of the files we noted that, terms such as "prostitution" were used but not in the manner as you have suggested.... Though we may both agree that the term commercial sexual exploitation is better, the worker's use of the term "prostitution" in no way was meant to be offensive or derogatory."*⁴¹

DCR itself recognizes the importance of language, and its potential for negative effect, in the philosophical base section of its *Family-Centred Services Policy and Procedures Manual*:

*"Labels, such as "unmotivated", and "hopeless" are counter-productive in efforts to empower the family. Such labels only contribute to the problem and limit creative solutions."*⁴²

The language used to describe situations or individuals reinforces an image that society holds about those situations or individuals. In the case of sexually exploited children, it is obvious from the investigation of the Oyate Safe House that there continues to be confusion within DCR and those agencies who provide

⁴¹ Letter from Deputy Minister of DCR dated August 24, 2006.

⁴² Family Centred Services Manual. Chapter 1. p.2

services to sexually exploited children. This appears to translate into the language used to describe sexually exploited children and to record their activity. This hampers effective intervention. When considering this finding, one DCR staff person made the following comparison:

"If a ten year old child who was well kept and dressed nicely came into DCR and disclosed that she had been sexually assaulted by her father ten times over the weekend, the response would be immediate. If that same child came in, dressed provocatively, on hard drugs, stating that she turned ten tricks that weekend, nobody knows what to do..."

The everyday language used by child protection workers and others to describe commercial child sexual exploitation is inherently derogatory and when it is used to refer to sexually exploited children, it is even more degrading and ultimately functions to discriminate against the victims to the point where they are seen as the problem and the authors of their own misfortune.

The issue of language used in the child welfare files and the stigma that is attached to children in care was addressed in a recent publication by the National Youth in Care Network:

"A recurrent comment made by youth in care is the negative portrayal of them in their case files. The files do not necessarily portray an accurate overall picture of them. These records read like rap sheets with full documentation of negative behaviours and attitudes without the balance of their positive gains in school and other successes due to lack of time, problem-oriented processes, staff, risk assessment models of operation and being unaware of negative impacts.

The system as it stands records mostly negative behaviours and attitudes because its resources – time, finances, and people – are limited. However, the pictures presented in each case file are often skewed negatively as a result."⁴³

The *Family-Centred Services Policy and Procedures Manual* of DCR also speaks to case documentation:

"Any case documentation should always be written in a professional and factual manner, with the assumption that at some point, this documentation may be viewed by the client or individuals and agencies outside the department."⁴⁴

⁴³ Primer Anthology; *Sharing Our Stories To Make a Difference: A Compilation of Stories and Research*. National Youth in Care Network. 2006. p.57

⁴⁴ *Family-Centred Services Policy and Procedures Manual*. Ch. 2. Sec7.p.4

This point is particularly salient when taken in context of the potential for the child to view the files. It is incumbent on those recording events to ensure they do not perpetuate the problem by reinforcing the notion of these sexually exploited children as authors of their own misfortune. Moreover, the notion of “sex trade”, “working” and similar terms gives an impression of legitimacy that diminishes the crime of sexual exploitation of children.

“When I turned 22, I was searching for answers as to why things happened in my life, so I decided to get my child welfare file....the first thing that I read was how my mother told the Child Welfare Worker that she used to hit us, but that she doesn't anymore. She told them that we had a verbal altercation and that I was lying about the abuse. The worker believed my mom. I continued to read bits and pieces and read things like “Nicole's giggle alienates people”. I also read things like I was “manipulative”. After reading things like this, you start to wonder if you are really like the person that they have written about in your file and if you have made up false perceptions of yourself.”⁴⁵

Imagine that child, in the context of being recorded on file as a 12 year old “prostitute” and the negative impact on the child's self-esteem and feeling of self-worth.

The Deputy Minister of DCR in his response to the CAO's ‘adverse in interest’ notice for this report points to the legislation as reason for the use of the term ‘prostitution’ by his staff in their recordings:

“The term ‘prostitution’ was used [in case file recordings] to describe a behaviour and is the current legal terminology.”⁴⁶

On this point, the Children's Advocate agrees. The existing language contained in *The Child and Family Services Act*⁴⁷ contributes to this stereotypical perception, in that child protection workers are expected to fit their protection grounds into the definitional language of “child in need of protection” contained in section 11(a)(iii) of that statute. That provision states as follows:

*“A child is in need of protection where:
(a) as a result of action or omission by the child's parent:*

... (iii) the child has been or is likely to be exposed to harmful interaction for a sexual purpose, including involvement in prostitution and including conduct that may amount to an offence within the meaning of the Criminal Code.”

⁴⁵ Primer Anthology; *Sharing Our Stories To Make a Difference: A Compilation of Stories and Research*. National Youth in Care Network. 2006. p.61

⁴⁶ Letter from Deputy Minister of DCR dated August 24, 2006.

⁴⁷ S.S. 1989-90, c. C-7.2, as amended.

The difficulties presented by this provision in terms of usability are threefold:

- (1) There is an inappropriate and stereotypical reference to “involvement in prostitution” and “conduct that may amount to an offence within the meaning of the *Criminal Code*.”
- (2) There is no reference to, or definition of, “sexual exploitation”; and
- (3) There is mandatory linkage to the action or omission of the parent as the activating causal circumstance.

In reviewing child protection legislation across the country, the CAO found that the British Columbia statute contains a more appropriate definition of “child in need of protection”, for purposes of addressing the issue of child sexual exploitation in that the language of “sexual exploitation” is explicitly used, with no stereotypical reference to “youth prostitution” and no mandatory linkage to the action or omission of the parent as the activating causal circumstance. In this regard, section 13(1)(c) of the British Columbia *Child, Family and Community Service Act* defines a child in need of protection including:

“if the child has been, or is likely to be, physically harmed, sexually abused or sexually exploited by another person and if the child’s parent is unwilling or unable to protect the child.”

In CAO interviews with a number of the young persons themselves, one of the youth commented:

“There is more understanding among the Oyate staff and residents, whereas, Foster Homes and other places are difficult, they hold your past against you.”

*Oyate Youth*⁴⁸

While it is acknowledged that front-line child protection work is difficult and that it is generally carried out in a professional and supportive manner, the use of stereotypical language at any point in child protection service delivery is demeaning and stigmatizing, as it implies a crime. By extension, then, this criminalizes the activity and the persons involved. Major shifts have been taken to better understand and appreciate that children being sexually exploited are **victims**, not criminals. Why has that shift not found itself translated into our legislative and policy language? By not connecting these “dots”, front line workers are left with little choice, but to continue to perpetuate an archaic view and attitude in order to intervene in the lives of sexually exploited children:

⁴⁸ As stated to CAO Investigators during youth interviews regarding Oyate.

"[When I was arrested for prostitution] all my friends were there and it hurt so much, it made me feel much lower...they [the judicial system] treat you like such a bad person or that you're a slut, tramp or whore. You're forced to go there [the streets], you were forced into that spot and if you said no, you were beat up or something worse, you could be killed. And they make it out like you're nothing, they don't try to help you, they just charge you and send you on your merry way... they know where you're going off to, you have to pay off your fine."

*Female youth, Saskatoon*⁴⁹

It is interesting to note that in January 2000, an amendment was made to *The Child and Family Services Act* to clarify that a child exposed to a harmful interaction for a sexual purpose included a child involved in commercial sexual exploitation. To this end, the wording of Section 11(a) (iii) of the *CFSA* was amended to add the phrase "including involvement in prostitution", while retaining the reference to "and including conduct that may amount to an offence within the meaning of the *Criminal Code*."

Unfortunately, this amendment merely perpetuated the notion that sexually exploited children were the "wrongdoers" and were engaging in criminal conduct. It would have been much more helpful in advancing the fact that these children are victims, if the legislators had used the phrase "sexual exploitation" or, "commercial sexual exploitation".

Recommendation SYS.25(06)

- (a) That Section 11(a)(iii) of The Child and Family Services Act be amended to make it easier to establish that a commercially sexually exploited child is a child in need of protection by using the language of 'sexual exploitation';***
- (b) That the amendment eliminate the use of the stereotypical language of 'youth prostitution' and the mandatory requirement of linking the sexual harm back to the action or omission of a child's parent or caregiver as the activating causal circumstance;***
- (c) That such an amendment provide that a child be found to be in need of protection 'if the child has been, or is likely to be physically harmed, sexually abused or sexually exploited by another person***

⁴⁹ Sacred Lives Canadian aboriginal children & youth speak out about sexual exploitation Save the Children Canada pg 27

***and if the child's parent is unwilling or unable to protect the child⁵⁰;
and***

(d) That such an amendment also set out definitions for both 'sexual abuse' and 'sexual exploitation'.

To assist in the use of this new language and to overcome any confusion with child protection legislation for those dealing with sexually exploited children, the CAO recommends:

Recommendation SYS.26(06)

- (a) That the Department of Community Resources (DCR) conduct mandatory training program to educate current and new department employees, agents, service providers and community based organizations of DCR, who participate in the delivery of services to sexually exploited children regarding the victimization of these children;***
- (b) That the goal of changing attitudes and responses to these child victims be the focus of this training by eliminating the terms 'working', prostituting', and other derogatory terms used to describe sexually exploited children who are victims of adult perpetrators;***
- (c) That the training include instruction concerning appropriate recording techniques and language for current and new department employees, agents, service providers and community based organizations of DCR who participate in the delivery of services to sexually exploited children, having regard to case recording best practice; and***
- (d) That DCR report its progress to the Children's Advocate regarding Recommendations SYS.25(06) and SYS.26(06) by December 31, 2006, for inclusion in the CAO Annual Report and prepare the legislative amendments as soon as is practicable.***

⁵⁰ The *Child, Family and Community Service Act*, R.S.B.C., 1996, C. 46, s. 13(1)(c).

Conclusion

The Government's response to the Special Committee recommendations is commendable. In theory, it reflects an understanding of the complex issues that face government workers, police and community organizations as they struggle to reach the **beyond 'at risk'** children and children identified as the victims of commercial sexual exploitation.

In practice, the *"Saskatchewan's Strategy to Prevent the Sexual Abuse and Exploitation of Children Through the Sex Trade"* has fallen short in its achievement of an integrated, multi-disciplinary and culturally sensitive continuum of services. This does not mean failure. It simply means that we must strive harder to address the short-falls of the strategies thought to work, but didn't; the philosophies thought to be clear, but weren't; and the language thought to be acceptable, but was harmful.

The CAO investigation of the Oyate Safe House indicates how easy it is for "good intentions" to go astray. A Safe House has a limited, albeit important, role in the continuum of services needed to address the complexity of sexually exploited children in a culturally sensitive way. It cannot be expected to be the entire spectrum. However, it must also accept its responsibility in the resistance shown to learn and develop as an effective community resource.

The ultimate losers in this scenario are the sexually exploited children who need support. It is time that the collective wisdom be joined in partnership to truly help and support these **beyond 'at risk'** children.

Issues affecting children, youth and their respective families are complex. But that should not prevent us from continuing to strive to do what is best for the child. During the course of our investigation, it became apparent to the CAO that the focus on the child was not first and foremost. No longer are the interests and well-being of the child paramount to the course of action taken. It appeared that the best interests of the child as 'the driving force' behind each decision were being lost. While the results of those decisions affect the child immediately, it is society that will feel the impact in the long-term.

We can never forget that sexually exploited children are victims. As such, they should not be treated as though they are committing a crime. Neither should their voices be ignored, nor remain silent, as though they are unimportant. Rather, every effort should be given to assist them in making positive change. In the course of its investigation, the CAO interviewed some of the children – to hear their voices, to capture their opinions. There are many lessons to be taken from what was heard and yet, the children themselves continue to be ignored. In addition, decisions that affect the interests, well-being, and self-esteem of

these sexually exploited children continue to be made without their input or consideration.

This report is extremely emotional. It has identified the ultimate failure of a system to look after our most valuable and vulnerable resource – our children. But we need to look and act beyond the emotion. We must, as a society, begin to examine the core issues that have led to the failure. And, we must take responsibility, recognize the shortcomings, and make the adjustments necessary to improve the opportunities for success in the protection and well being of our children.

Because of its special “parental” status as parent to children in need of protection or in its care, the responsibility for these children lies with DCR. The task of serving as parent to these children is not an easy one. However, as parent, DCR must exemplify the role of a responsible and vigilant parent – ensuring that everything possible is being done to protect the well-being and best interests of the children in its care.

No parent has all the answers. But as responsible parents, each of us takes on the responsibility to look after the health, safety and well being of our children. As the primary ‘parent’ of children in its care, DCR must assume its role as an exemplary parent, not simply looking after its children in a short-term ‘stop gap’ fashion, but truly looking out for its children’s long term interests and well-being. We expect nothing less of biological parents or guardians in our society.

It is the hope of the Children’s Advocate that the parties involved will not look to each other to blame, but rather work together, with the realization that the people who pay the price for uncooperative and acrimonious adult behaviour are the children. It is time that we, as responsible adults, parents, community members and governments recognize that we must keep paramount the best interests and well-being of these commercially sexually exploited children in every service delivery decision we make.

APPENDIX A

1. Recommendation SYS.15(06)

That the Government of Saskatchewan restate its commitment and re-establish its priority to address the issues of sexually exploited children and the recommendations presented by the Special Committee in its final report, as initiated in its 2002 Saskatchewan's Strategy to Prevent the Sexual Abuse and Exploitation of Children Through the Sex Trade.

2. Recommendation SYS.16(06)

- (a) That the Government expand the mandate and participation of its Interdepartmental Steering Committee to include: Aboriginal representation; experiential youth; enforcement agencies; community based organizations; and other relevant stakeholders.*
- (b) That this Committee be supported with the resources and priority to establish a process of collaborative partnership of culturally sensitive service delivery to meet the needs, best interests and well-being of sexually exploited children through government departments, agencies, Aboriginal communities and community based organizations on a provincial basis;*
- (c) That the Committee review its communication process for information sharing and implementation process between itself and the Regional Intervention Committees;*
- (d) That DCR be identified as having the responsibility of 'lead liaison department' in the coordination of action, planning and implementation of services stemming from this committee; and*
- (e) That DCR report its progress to the Children's Advocate by December 31, 2006 for inclusion in the CAO Annual Report.*

3. Recommendation SYS.17(06)

- (a) That the expanded provincial inter-departmental, multi-disciplinary and inter-agency committee envisioned in CAO Recommendation SYS.16(06) be charged with the task of developing a service delivery model for Safe Houses with shared service delivery principles to address the complex needs of sexually exploited children that are culturally sensitive, but keep*

*the best interests of the child as the principle of paramount importance;
and*

- (b) That this committee develop the service delivery model of Safe Houses from a provincial perspective with a view to networking, sharing experiences, information and learning.*

4. Recommendation SYS.18(06)

That the Department of Community Resources develop a new child-focused definition of permanency planning that is neutrally stated and consistent with the best interests of children, having regard to the following elements:

- (a) An integrated system of review procedures;*
- (b) A full range of preventive and in-home services;*
- (c) Case management and case planning that are culturally appropriate;*
- (d) Strategies to minimize the length of time that a child will live in a setting that lacks the promise of being permanent;*
- (e) The full spectrum of permanency planning including placing the child with biological parents, relatives, permanent foster parents, adoptive parents, or foster/prospective adoptive parents;*
- (f) Active collaboration among key community agencies; and*
- (g) Active participation of the family, child and the community in planning.*

5. Recommendation SYS.19(06)

That the Department of Community Resources develop an action plan regarding permanency planning, having regard to the following requirements:

- (a) That the action plan recognize the need for thorough and timely assessments, which identify both the risk to the child and the existing parenting capacity;*
- (b) That this comprehensive assessment lead to inclusive, intensive and timely intervention and permanency planning;*
- (c) That this action plan be applied across all cases involving child protection issues, including those of sexual exploitation;*

- (d) That the planning be based on the actual situation of the child, including her/his personal, family and social situation; and*
- (e) That DCR report its progress to the Children's Advocate by December 31, 2006 for inclusion in the CAO Annual Report and provide a copy of its definition and final action plan on permanency planning as soon as is practicable.*

6. Recommendation SYS.20(06) [This recommendation replaces the current CDR.42 (99,00)]

- (a) That the Department of Community Resources undertake to regularly identify and review, at a management level (i.e. beyond the supervisory level), those cases where children are repeatedly subjected to neglect or abuse over a significant period of time and where the Department of Community Resources has received repeated referrals of child protection issues;*
- (b) That this review be intended to ensure that interventions are "as complete and as intensive as necessary, reflecting the best interests and well-being of the child, to bring about needed change to reduce risks and ensure the ongoing protection and safety of the child"; and*
- (c) That this review be conducted in the context of a permanency plan for the child that includes the elements outlined in Recommendation SYS.18(06).*

7. Recommendation SYS.21(06)

- (a) That the interdepartmental, multi-disciplinary and inter-agency committee outlined in Recommendation SYS.16(06) with DCR as lead liaison, develop a continuum of service strategy that is consistent with, and complimentary to, the Government action strategy released in 2002⁵¹, including safe houses, longer term housing for sexually exploited children, educational support, mental health, addiction services and health services, counseling and therapeutic resources, regardless of age or gender; and*
- (b) That this strategy have at its core:*
 - i) a policy that speaks to the 'best interests and well being of the child' as being the paramount consideration;*

⁵¹ Government of Saskatchewan. Executive Council, Media Services.
<http://www.gov.sk.ca/newsrel/releases/2002/03/22-183-attachment.html>

- ii) that the service strategy be child-focused, family centred and culturally sensitive;
- iii) that specific strategies of case planning and management, based on risk assessments regarding the family, extended family and other living environmental conditions, be initiated to protect the child from further sexual exploitation, abuse or harm; and
- iv) that the safety parameters utilized in other residential care facilities concerning age appropriate and gender mixing, be incorporated.

8. Recommendation SYS.22(06)

- (a) That the definition of "child" in section 2(1)(d) of The Child and Family Services Act be amended for, among other reasons, consistency with the definition of "child" as set out in both Saskatchewan's The Age of Majority Act and Article 1 of the UNCRC; and*
- (b) That DCR report its progress to the Children's Advocate regarding Recommendations SYS.21(06) and SYS.22(06) by December 31, 2006 for inclusion in the CAO Annual Report and prepare the legislative amendments as soon as is practicable.*

9. Recommendation SYS.23(06)

- (a) That proposed amendments to The Child and Family Services Act be introduced by the Minister of DCR to codify a list of guiding principles, which can be used at all decision-making points under the legislation, with the most important principle being "the paramount purpose of the Act shall be to promote the best interests, protection, safety, and well-being of children";*
- (b) That proposed amendments to The Child and Family Services Act be introduced by the Minister of DCR to codify a list of service delivery principles with the common objective of reinforcing the government's obligations to provide services in a respectful and culturally sensitive manner; that reflect the need for active participation and planning by aboriginal communities in respect of aboriginal families and children; and that optimize maximum participation and representation for both children and their families; and*
- (c) That further proposed amendments to The Child and Family Services Act be introduced by the Minister of DCR to codify the rights and entitlements of children in the care of DCR. This may be in the form of a Preamble,*

Declaration of Principles, or preferably, a new Part of The CFSA, ideally incorporating the principles set out in the United Nations Convention on the Rights of the Child.

10. Recommendation SYS.24(06)

- (a) That the Department of Community Resources (DCR) provide a more prominent child focus to its family-centred policy manual (i.e. Family Centred Services Policy and Procedures Manual) and incorporate the phrase, "child focused, family-centred and culturally sensitive", in order to achieve the right balance among these various considerations;*
- (b) That DCR give paramount consideration to promoting the child's best interests in accordance with Article 3(1) of the United Nations Convention on the Rights of the Child and the child welfare legislation in most other provincial jurisdictions; and*
- (c) That DCR report its progress on Recommendations SYS.23(06) and SYS.24(06) to the Children's Advocate by December 31, 2006 for inclusion in the CAO Annual Report and prepare the legislative amendments as soon as is practicable.*

11. Recommendation SYS.25(06)

- (a) That Section 11(a)(iii) of The Child and Family Services Act be amended to make it easier to establish that a commercially sexually exploited child is a child in need of protection by using the language of 'sexual exploitation';*
- (b) That the amendment eliminate the use of the stereotypical language of 'youth prostitution' and the mandatory requirement of linking the sexual harm back to the action or omission of a child's parent or caregiver as the activating causal circumstance;*
- (c) That such an amendment provide that a child be found to be in need of protection 'if the child has been, or is likely to be physically harmed, sexually abused or sexually exploited by another person and if the child's parent is unwilling or unable to protect the child'⁵²; and*
- (d) That such an amendment also set out definitions for both 'sexual abuse' and 'sexual exploitation'.*

⁵² The Child, Family and Community Service Act, R.S.B.C., 1996, C. 46, s. 13(1)(c).

12. Recommendation SYS.26(06)

- (a) That the Department of Community Resources (DCR) conduct mandatory training program to educate current and new department employees, agents, service providers and community based organizations of DCR, who participate in the delivery of services to sexually exploited children regarding the victimization of these children;*
- (b) That the goal of changing attitudes and responses to these child victims be the focus of this training by eliminating the terms 'working', prostituting', and other derogatory terms used to describe sexually exploited children who are victims of adult perpetrators;*
- (c) That the training include instruction concerning appropriate recording techniques and language for current and new department employees, agents, service providers and community based organizations of DCR who participate in the delivery of services to sexually exploited children, having regard to case recording best practice; and*
- (d) That DCR report its progress to the Children's Advocate regarding Recommendations SYS.25(06) and SYS.26(06) by December 31, 2006, for inclusion in the CAO Annual Report and prepare the legislative amendments as soon as is practicable.*