





# WHEN THERAPY AND SAFETY COLLIDE

Working with B.C.'s Child Welfare System

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Anyone who has had a disclosure of child protection concern during a therapy session can recall with sharp accuracy the feeling that occurs when you hear something you may need to report. For some, it is as if a brick has been dropped in your stomach; for others, it is as though a wave has crashed into your chest. It is different for everyone, but the feeling is unforgettable. Ensuring the safety of children is the responsibility of everyone, but it is frequently community professionals who receive the disclosures. It almost never feels good to make the call.

In B.C., the agency responsible for child welfare is the Ministry of Children and Family Development (MCFD). Given the complex intersections of child welfare legislation, policy, and practice, engaging with the system or with child protection workers can bring up feelings of anxiety and negatively effect a therapist's ability to engage in collaborative relationships with child protection workers. Oftentimes,

these feelings are based on a fundamental lack of understanding the system. Clearing up confusion not only alleviates concerns but also supports interdisciplinary relationships and allows therapists to better support clients.

## **DUTY TO REPORT AND SECTION 13**

What is duty to report, anyway? Duty to report goes beyond an ethical and moral obligation to be committed to the safety and welfare of children. It is also a legal obligation. Enshrined in B.C.'s *Child, Family and Community Service Act* (CFCSA) under section 14, duty to report necessitates the "prompt" reporting of information that leads any person to have "reason to believe" a child needs protection. The provision's two key components are "prompt" and "reason to believe" and are important to understanding the parameters of your duty to report child protection concerns.

The CFCSA was designed to take the guesswork out of what qualifies as reportable child protection concerns, and what does not,



by using language that directs people to report information as soon after they receive it as possible (i.e., promptly) and to report information that only needs to meet the minimum threshold of concern (i.e., “reason to believe”).

The concept of “reason to believe” is a much lower bar than knowing or understanding that a child needs protection. Knowing and understanding often require context, supporting details, and evidence; “reason to believe” is as simple as a disclosure from a client with no further questions asked.

People are generally discouraged from gathering information outside of the disclosure or observation that led to the report, as this is the child protection worker’s role. However, sometimes asking a question to support your report is necessary.

For instance, maybe you are a play therapist in a session with a three-year-old child. During the session, you notice bruising on the child’s face. In this circumstance, it is reasonable to ask the child about the injury. If they give you reason to believe the bruising was caused by a

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parent, that is a good place to stop and report the information as soon as you can. Alternatively, maybe your client is a parent who lost a loved one last year, and you discover that significant binge alcohol use on weekends is a primary coping mechanism. You are also aware that this client is a single parent to a nine-year-old child and no other adults reside in the home. In this circumstance, it is reasonable that no further questions for the sole purpose

of making the report (outside of what is reasonable through the therapeutic process) should be asked and a report to MCFD made as soon as possible.

Counsellors want to believe their clients are open, honest, and transparent in sessions, and it may genuinely seem that way. However, the reality is that when the door to the counselling room closes, the therapeutic conversation exists in isolation and clients often omit or misrepresent aspects of their history, lives, and experience. Of course, clients do this for many valid reasons, some of which may be the root of why they are in therapy. Be mindful that the feeling a client is being completely forthcoming does not translate to that being factually correct. This is particularly salient when we think about timely

reporting of child welfare concerns.

The legislation uses the word “prompt,” but therapists can think of this as being closer to “as soon as possible.” The reality for child protection workers is that the report may say one thing, but the reality can be and frequently is completely different. Sometimes this means the report is of no concern whatsoever, once

all the facts and context are brought together. Other times, a report of what seems like an isolated incident of inappropriate physical discipline, for example, turns out to be ongoing sexual exploitation. There is no way of knowing which report might turn out to be more than what appears on the surface. With that in mind, for every hour a report is delayed, children and youth persist in their situation without a child protection worker looking

into it. This is why timely reporting is important.

**HOW REPORTING WORKS**

So, a client just made a disclosure of a child protection concern, and you know you are obligated to report that information. What next? Before you make the call, some information needs to be ready ahead of time.

First and foremost, gather as much information about the household as you have available. First and last names of parents and children in the home, birthdates if known, residential address of the family, and their telephone number(s). If you do not have all that information, do not let that stop you from reporting — just gather as much as you can before you call.

You will likely be asked if the family is of Indigenous heritage, and it is perfectly fine if you do not know. However, this information informs which regional office receives the report. In an ongoing effort to address and correct historical inequities in service provision, MCFD has designated teams of child protection



## FAMILY LAW ACT

Child protection work is governed primarily by the CFCSA but is also impacted by other related pieces of legislation. The *Family Law Act* (FLA) has particular significance when children have separated parents.

One of the most often misconstrued implications is that if there are child protection concerns with one parent, MCFD can place the child with the other “safe” parent. This is simply not the case because, in doing so, MCFD would be making a decision that ultimately lies with a family court judge. Regardless of relationship status or parenting agreement, both parents have responsibility for the safety and welfare of their children. MCFD’s role in the community is to be a social safety net of last resort.

In that light, a parent who is taking no reasonable action to ensure their child’s safety, even if it is from the other parent, is a child protection concern in itself. In a situation where 1) both parents are failing to act protectively (either through their action or inaction), and 2) no other less intrusive measure than removal is adequate to ensure safety, then the child(ren) are removed from the care of both parents.

Separated parents seeking to be protective of their children due to concerns with their co-parent should be encouraged to seek legal advice about steps they can take through the family courts, as well as reporting their concerns to MCFD. Legal aid information for FLA can be found at <https://family.legalaid.bc.ca/>.

for the geographical area in which the family resides. If the reported information does not meet the legal threshold outlined under section 13, then MCFD does not have grounds to act.

workers who work exclusively with Indigenous families. In some areas of B.C., external Indigenous organizations have agreements with MCFD to take over report assessment.

You will also be asked information about yourself, such as your name, phone number, and how you came by the information you are reporting. Under the CFCSA, your identity as the reporter is protected as confidential. However, like the exceptions to confidentiality that exist within therapeutic relationships, section 79 of the CFCSA outlines exceptions to the legal obligation of MCFD to keep all collected information (including your identity as the reporter) confidential.

The most notable exception to confidentiality is when the immediate safety or well-being of a child is in question. For instance, when reported information suggests a crime may be or has been committed and a child must be located right away to ensure their safety, MCFD often works collaboratively with police. If the reported information is not sufficient to assist police in locating that child,

MCFD may deem it necessary to release the reporter’s name and contact information to police so further information can be collected. While these situations are rare, they do occur from time to time. Reporters of child protection concerns have the right to withhold their identity, and the child protection report will still be collected. However, reporters of child protection concerns would be wise to weigh the pros and cons of withholding their identity. Even outside emergency situations, it is not uncommon for child protection workers to have additional questions that would support their assessment of the report.

Once you make your report, the information is held up against section 13 of the CFCSA. Section 13 is arguably the most commonly referred to section of the CFCSA, given that it outlines the circumstances under which a child needs protection and under which MCFD becomes involved in families’ lives. If the determination is that an assessment of the reported concerns is required, then the report will be sent to the local district office



## WHEN YOU MUST MAKE A REPORT

- Concerns that a child has been or is likely to be physically harmed, sexually abused or exploited by a parent or someone else, and the parent is not able or willing to protect the child or youth.
- Concerns that the child or youth has been or will be physically harmed due to neglect.
- Concerns that the child or youth is being emotionally harmed.
- Concerns that the parent has been or is absent from the home and the child or youth's safety and/or well-being is in danger.
- Concerns that a child or youth has been abandoned, and no adequate care arrangements have been made.
- Concerns that a child or youth is being exposed to domestic violence in their home towards a person who also lives in the home.
- Concerns that a child or youth's development is being or will be seriously impacted by a parent's refusal to consent to treatment for a treatable condition.
- Concerns that a parent is unable or unwilling to care for their child or youth and has not made adequate care arrangements for that child/youth.
- When a child or youth's parent has died, and no adequate care arrangements have been made.

It is a common misconception that if a report is made, MCFD will act upon it. The truth is that child protection work in B.C. is guided and governed by legislation. While there is some level of clinical judgment used to establish risk level, a report either meets section 13 criteria or it does not. Alternatively, it can be equally frustrating to report child protection concerns and have MCFD take no action. Again, this is a case of reported information either meeting the threshold for action by MCFD or not.

### THE ASSESSMENT PROCESS

It is important to understand that when MCFD receives a report that meets the legal threshold to be looked into further, parents/guardians are not investigated; rather, child protection reports are assessed. While this may sound like a matter of semantics, it is actually an important distinction that speaks to the lens through which child protection workers do their job.

Investigating families is predicated on the assumption that something is wrong and launches from a punitive mindset. On the other hand, the idea of assessing reports is grounded in the understanding that the reported information may be incomplete or false to varying degrees; this is consistent with efforts to work collaboratively with families and in the least intrusive manner safely possible. Child protection workers understand families are complex, multi-faceted, dynamic, and fluid entities. While a child protection worker's mandate may be first and foremost to ensure children are safe, it is also fundamentally to

understand how and why families function as they do and if supports are available to assist the family in being the best version of themselves.

### INFORMATION SHARING

Common feedback from community professionals is that MCFD does not share what is believed to be pertinent information about children and families involved with child protection services.

This can be perceived as a roadblock for community professionals to support the family or child(ren). While this can be frustrating, the fact is that information MCFD collects does not belong to MCFD — it belongs to the individuals and families that it is about and is, therefore, not MCFD's information to disseminate without

consent or just cause. Clinical counsellors understand this well, as the same concept guides our own confidentiality practices.

That said, it is not uncommon for child protection workers to request to speak with clinical counsellors supporting the family. In this case, child protection workers will almost certainly provide a signed "consent to collect information" form or the client will provide verbal consent to their (or their child's) counsellor. While this is an opportunity to ask the child protection worker questions, you may not get any answers. A signed "consent to collect information" form from the child protection worker is not the same as a signed "consent to disclose information" or a signed "consent to collect information" form provided to the worker by you. Counsellors understand

well that conversations have two parts, speaking and listening, and if child protection workers only have consent to listen to what you have to say, you can expect a one-sided conversation.

What if a child protection worker asks questions outside the reported information? Perhaps they ask questions about how long you have been working with the client or how you would describe their therapeutic engagement. These questions and similar others are outside the bounds of your report. You would be well advised to say that you have outlined all the information you have regarding the child protection concerns and you will need a consent form signed by the client to answer further questions.

### FINDING OUT WHAT HAPPENED WITH YOUR REPORT

As the reporter of child protection concerns, you are able to ascertain the outcome of report. Call MCFD's Provincial Centralized Screening or the relevant district office and identify yourself as a reporter who would like to know the outcome of their report. You will be provided with only basic information, such as whether there was a need for ongoing child protection services or not, as the assessment details are protected by confidentiality provisions in the CFCSA that also protect your identity as the reporter.

If you have reason to believe a child or youth in B.C. has been or may be harmed, please contact MCFD's Provincial Centralized Screening, 24 hours a day, 7 days a week, 365 days a year at 1-800-663-9122. ■

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