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Children's Aid Society workers should be reined in, critics say

Presented by



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They are charged with the most essential of duties: protecting vulnerable children from abuse and neglect. They will intervene in the lives of roughly 200,000 Canadian children this year.

For most of us, they are generally unseen, save for occasional mentions in news reports, when they rescue children from misery. Or, as sometimes happens, deliver it.

Canada's child-welfare agencies, says University of Manitoba social work professor Brad McKenzie, have among the broadest intervention powers in the Western world.

Caseworkers come armed with vaster powers than any police officer investigating crime. It is an immense authority easily abused, without vigilant restraint.

It is time, critics say, they were reined in.

"The social worker system, as it applies to children, is out of control, seriously out of control," says Katherine McNeil, a children's advocate who has worked with families in Nova Scotia and B.C. "And nobody's doing anything about it."

Child-welfare agencies step in when kids are homeless, exploited, hungry or abused. They do not stop there. As the highly publicized neo-Nazi case in Winnipeg demonstrates, they might seize children from parents for teaching racist views, or for "emotional neglect." They have taken newborns from parents considered insufficiently intelligent; from religious families believing the Bible commands them to discipline kids with a rod. They order homeschooling parents to enroll children in public school, deeming them inadequately socialized.

"They violate all kinds of privacy and rights," says Chris Klicka, senior counsel for the Home School Defense League, which represents Canadian and American parents.

Whether we wanted it or not, knew it or not, over time, the work of child-welfare organizations has become "parenting by the state and the imposition of their value system on other people," says Marty McKay, a clinical psychologist who has worked on abuse cases in the U.S and Canada. Provincial agencies have the power to intervene when children are considered "at risk" of abuse or neglect - even if none has actually occurred. Or, where spousal abuse happens, but kids are untouched. And what they do with the children they take can sometimes be worse than what they suffered at home.

When journalist J.J. Kelso founded Canada's first Children's Aid Society in 1891, it was from revulsion at what he had witnessed working in Toronto's slums: the filthy, homeless urchins begging on the street, the school-aged girls whored out by parents for whiskey money; children needing "rescue," Kelso exhorted, "from the environments of vice, cruelty or mendicancy."

Courts could imprison parents for cruelty, but not revoke custody. Backed by the 1893 Act for the Prevention of Cruelty to and Better Protection of Children, the society had unique authority to directly interfere in affairs of parents and children: Anyone under 14 found begging, receiving alms, out late, homeless, orphaned, imprisoned, thieving, or associating with thieves, drunkards or vagrants, would be appropriated by the province.

Since then, as child-welfare agencies multiplied across Canada, their authority expanded, too.

One Calgary mother said her kids were recently pulled from class and questioned by a caseworker after she kept them home from school for a week, fearing they might be exposed to Swine Flu. When the mother protested, the worker threatened to seize all six children in her house, including two toddlers.

"All because I was overtly concerned about my children's health," says an incredulous Ms. K, who, as is the case with all investigations, cannot be identified. Nor can she ever know who lodged the complaint against her.

The worker later visited the house. There, Ms. K reports (and witnesses confirm), when she further protested the interference - at one point calling police - the agent hollered at her, physically accosted her, and threatened to report her for abuse, of which, the caseworker later relented, there was no evidence.

The secrecy that envelops these cases makes it nearly impossible to fully investigate Ms. K's remarkable claims: caseworkers do not permit "clients," as they're called, to record meetings, and agencies cannot comment on any case. But the account doesn't shock those who work closely with the authorities.

"I'm certainly not surprised, and hear over and over again of workers ... threatening [parents] with apprehension. They'll never admit it in court, of course, but I hear it all the time," says Bradley Spier, a Calgary family lawyer. "Most of the time they're above board. ... They all have an attitude, but they'll do their investigation and, if they can't substantiate it, they're generally pretty honest about that, and won't take any action. But until then, they're god-like creatures, for lack of a better word. Or they think they are."

The government's role in protecting vulnerable children treads an impossibly fine line. Without anonymous complaints, and the power to interview and apprehend, some children would undoubtedly suffer terribly. Accordingly, legislators grant workers astounding licence: a social work graduate, fresh from college, can enter a home without warrant; apprehend children without due process; and commandeer police officers to enforce his or her efforts. A caseworker can order children dressed, fed, medicated, and educated any way they consider appropriate. Parents who do not submit risk losing custody, even visitation of their kids. Or have them taken away permanently.

It is an authority that is sometimes severely misused. When that happens, Ms. McKay says, families can be traumatized in a perversion of the very system designed to prevent abuse.

The anonymous process, for example, invites bogus tips - commonly from divorcing parents, for instance, since agencies can unilaterally alter custody arrangements. Most complaints prove "unsubstantiated": 55% according to the most recent Health Canada study.

"Children's Aid, even when they don't start an investigation [themselves], they can be manipulated by people," says Ms. McKay.

Prof. McKenzie says child-welfare agencies typically do good work under difficult circumstances. Overstretched caseworkers, with general training, can be unequipped to specialize in interventions and the complexities each case brings. What some, middle-class agents might consider neglect, for example, is often a matter of poverty, not necessarily cruelty.

And some child-welfare workers also exploit their tremendous clout to behave unethically, prejudicially or illegally.

"Some of them get a real power complex because they have a bachelor of social work, or a masters, and they suddenly have this power [to] apprehend," says Ms. McKay. "They throw their weight around." She sees in some workers a "police mentality." It may be a coincidence, but in the largest English-speaking provinces, Alberta, B.C. and Ontario (Quebec data are incomplete), the number of children taken into care by provincial agencies between 1993 and 2001, rose a remarkable 97%, 63% and 72% respectively.

Prof. McKenzie is encouraged by a nascent trend in Canadian agencies away from historic, heavier-handed investigative and apprehension focus, and toward working more co-operatively with families to improve home conditions.

Studies show that under the current system, he says, "generally we find that the majority of children that are served [by welfare agencies] do well" - meaning they thrive at school, seem generally well-adjusted, are free from abuse and neglect. About 15% to 20%, he says, do not.

That is not a trifling number. But the stories behind it - let alone the validity of the initial apprehensions - can prove impenetrable. Cases are shrouded in silence, media blocked from reporting details, or questioning workers, in the legitimate name of protecting children involved (even in the high-profile Winnipeg neo-Nazi case, most details were concealed). But such limits thwart public scrutiny into an arm of government as capable of error as any other, yet, in determining how much or even whether families stay together, working with some of the highest stakes imaginable.

Last year, Ontario MPP Andrea Horwath tabled a private member's bill to make Children's Aid Societies answerable to the provincial ombudsman, something Ontario's Children and Youth Services has repeatedly resisted (ombudsmen in some other provinces, such as Alberta, have that authority). Ontario's CAS typically refuses to share files with its Child Advocate; in his annual report released earlier this year - which found 90 children in provincial care died in 2008 - Irwin Elman called it "almost impossible" to get information necessary to investigate potential agency wrongdoing. In 2007, the Supreme Court ruled parents could not sue child-welfare agencies; provinces, it ruled, owed no

"duty of care" to families. The lack of oversight, says Ms. McNeil, creates departments accountable only to themselves.

And there are numerous instances of caseworkers acting improperly. Two years ago, a Nova Scotia judge ruled that workers intervening in a divorce custody dispute were so biased against the mother, and in favour of the father - who lived with a woman previously the subject of interventions for violence and neglect - that they took "intentional and deliberate" steps to "mislead the court" by concealing evidence against him. A few years earlier, the CAS of Prescott and Russell, near Ottawa, and one worker, were convicted of contempt of court for refusing to return a two-year-old boy to his parents, defying a judge's instructions to do so. Agents insisted they were acting in the boy's "best interests." In 2001, two judges in Simcoe, Ont., criticized the CAS there for "arbitrary use of government power" and unreasonableness "verging on blind obstinacy" in fighting to keep children from being adopted by certain foster parents. Several parents interviewed for this story claim to have faced false accusations and bullying from caseworkers harbouring apparent agendas.

A report this year from Saskatchewan's Children's Advocate, Marvin Bernstein, found children suffering serious, ongoing abuse and neglect in the care of the province amidst a "culture of non-compliance with policy" among social services staff.

Even when acting with utmost professionalism, whether agents are able to provide children a better, safer environment than where they came from is not certain.

Mr. Bernstein's report found staff knowingly placing children with histories of committing sexual abuse into crowded foster homes where they preyed on other kids, without alerting foster parents to the problem (one reported that a caseworker assured her "a certain amount of sexual abuse is to be expected in a foster home"). A quarter of children were placed in overcrowded homes, he found, as staff routinely used "manipulative methods" to "trick" foster parents into taking more kids than they were approved for. Two Saskatchewan caseworkers were suspended in February after being discovered shuffling children between foster homes to hide overcrowding conditions from investigators.

"Children's Aid has no business placing into care a child that they can foresee is going to come out worse the other end than when they went in," Ms. McKay says. "If that's the best they can do, just leave them."

Two teens charged in connection with the recent double murder near Edmonton were in care of a ministry-licensed group home - a place neighbours say they warned the government for years was poorly monitored. In March, a 15-month-old baby in care of Alberta's Children and Youth Services suffered critical head injuries in a foster home; in the past four years, two Alberta children have been killed by foster parents. A 2008 report found Alberta caseworkers regularly placing kids in unsafe conditions, including abusive situations.

Last year, seven-year-old Katelynn Sampson was killed in Toronto in care of a foster parent with a record of violent crimes, and in Vancouver, police discovered minors in provincial care working as prostitutes. In 2002, Jeffrey Baldwin was abused and neglected to death by a couple with a known history of child abuse but were nonetheless granted custody of the five-year-old by the Catholic Children's Aid Society of Toronto. A 2006 CBC investigation uncovered Ontario caseworkers drugging a seven-year-old Ontario boy into a stupor with massive doses of psychotropic medications, which a

psychiatrist would later find had "no actual treatment value," except making him more compliant in his group home. While in his drugged state, he was sexually abused by fellow residents.

Those who believe in the good intentions of child-welfare agencies argue they lack the resources to deal properly with each case; with some workers handling more than 30 clients simultaneously, it is impossible to act perfectly. One problem, believes Ms. McKay, is caseworkers spread too thin, drifting far from the original vision of the state's role in family matters: protecting kids from verifiable and authentic abuse, cruelty and neglect.

"They need to go back to the basics," she says. "Do the children look well-nourished? Do they have bruises on them? Are they molested? Is the house crawling with cockroaches? If not, they're not being abused or neglected."

But with powerful, generally unaccountable agencies, dependent on justifying their place in a world far improved from the cruelties of J.J. Kelso's Victorian Toronto, the need to intervene in more cases, for more reasons, may make such discipline difficult. "I would love to just demolish the system and start from scratch again," she says. "Because it's gone very far awry here."

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