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SASKATCHEWAN

THE CHALLENGE OF PROFESSIONALIZING CHILD PROTECTION WORK AND RETAINING THE TITLE OF SOCIAL WORKER BY MARVIN M. BERNSTEIN¹

INTRODUCTION

This article has grown out of a presentation I gave to child protection staff of the Department of Community Resources on March 9, 2006 in Regina, Saskatchewan as part of the celebration of Social Work Week. It is also intended to draw upon the 28 years of child welfare experience that I have had in the Province of Ontario as Counsel to the Children's Aid Society of York Region (3 years); Chief Counsel to the Catholic Children's Aid Society of Toronto (20 years); and Director of Policy Development and Legal Support, Ontario Association of Children's Aid Societies (5 years).

During my years of working with Children's Aid Societies, my individual clients were the front-line social workers who were acting as the instructing family service workers. I grew to develop an enormous and unwavering respect for these individuals, who are doing such important work "in the trenches", but are often second-guessed when they make important decisions about the well-being of children for whom they have direct responsibility. Over my career, I have seen a consistent nobility of purpose and a strong commitment to child protection and social justice that has been truly exceptional. I have also been the beneficiary of enduring friendships and collegial relationships with social workers, who are or have been in leadership positions within child welfare, and who have made outstanding contributions to the advancement of child welfare through a variety of academic, research, policy and/or practice pursuits.

During my years of child welfare involvement in the Province of Ontario, I saw the pendulum swing from the promotion of child protection and child safety to the promotion of family empowerment and reunification and then back again. In fact a number of child deaths in Ontario in respect of children receiving child welfare services led to a series of child welfare systemic Inquests and a report of a Panel

¹ B.A., LL.B., LL.M., Children's Advocate, Province of Saskatchewan, Article prepared in May 2006 for the SASW Newsletter and for other relevant professional Journals.

of Experts chaired by Madam Justice Mary Jane Hatton², recommending that a greater emphasis be placed on the safety of vulnerable children. This, in turn, generated a whole child welfare reform initiative, culminating in the enactment of several amendments to the Ontario *Child and Family Services Act* in March 2000. I also worked at the Catholic Children's Aid Society at a time when a child protection worker was co-charged with criminal negligence causing death, together with the mother of Jordan Heikamp,³ a five week old infant who starved to death at a Toronto women's shelter where he was residing with his mother, after the approval was provided by the child protection worker. I saw first hand the devastating effects upon a conscientious child protection worker who happened to be in the wrong place at the wrong time. Fortunately, this worker was discharged at the preliminary hearing stage, but she still had to endure the ordeal of a public inquest and much negative media exposure shortly thereafter.

As well, I have refined my thinking about the role of social workers in the child welfare system over the years through my involvement as a sitting member of the Ontario Association of Social Workers (OASW) Image of Social Work Task Force (later changed to the Public Relations Advisory Group) and as a member of both the Sparrow Lake Alliance Steering Committee and the Child in Limbo Task Force of the Alliance.

Now, as Children's Advocate for the Province of Saskatchewan, I have a special interest in contributing to systemic change that will enable child protection workers to perform their duties with optimal effectiveness, so that the children and young persons of this province will have their interests and well-being properly considered and served at all times.

THE CONTEXT OF CHILD PROTECTION WORK

Child protection workers are often the unsung heroes when a child is protected from harm or goes on to enjoy a happy and secure life as a result of judicious worker intervention. Child protection workers are the composite glue that holds the entire child welfare system together. They should be admired for the importance of the work that they do and for the passion and commitment they exhibit on behalf of our most vulnerable citizens. The unfortunate reality, however, is that they are subject to a great deal of stress and are too often unappreciated, if not publicly criticized. As stated by Lord Nicholls of the British House of Lords:

² Hatton, M.J. (Madam Justice) et al., *Report of the Panel of Experts on Child Protection* (Toronto: Ontario Ministry of Community and Social Services), 1998.

³ For a detailed discussion of this case, see Bernstein, M., Regehr, C. and Kanani, K., *Liability for Child Welfare Workers: Weighing the Risks*, in *Canadian Child Welfare Law: Children, Families and the State* (ed. Bala, N. et al.), Thomson Educational Publishing, Inc.: Toronto), 2004. A shorter version of the article appears in OACAS Journal, April 2002, Vol. 46, No. 1 (www.oacas.org).

“Cruelty and physical abuse are notoriously difficult to prove. The task of social workers is usually anxious and often thankless. They are criticized for not having taken action in response to warning signs which are obvious enough when seen in the clear light of hindsight. Or they are criticized for making applications based on serious allegations which, in the event, are not established in court. Sometimes, whatever they do, they cannot do right”.⁴

The stress of child welfare practice has been well documented in the literature and can be attributed to a number of factors⁵:

- Excessive workloads caused by unwieldy caseloads;
- Frequent court appearances;
- Overwhelming paperwork and documentary requirements;
- Poor working conditions;
- Low salary;
- Rapid organizational and supervisory changes;
- Conflicts with supervisory or management staff;
- Changing policies and standards;
- Lack of community resources;
- Conflicts with community stakeholders;
- Mandatory training;
- Frequent travel;
- Working much of the time with involuntary and sometimes hostile clients;
- The enormous responsibility of protecting vulnerable children;
- Threats and risk of personal injury and post-traumatic stress disorder;
- Threats of civil liability or criminal charges;
- Risk of injury or fatality to a child for whom the worker has responsibility; and
- Public or media scrutiny.

In the research conducted by Professor Cheryl Regehr and her colleagues, they found that child protection workers have rates of traumatic stress scores, which are considerably higher than those of workers in the other canvassed emergency service organizations, such as paramedics and firefighters.⁶

A WAY FORWARD

It is imperative that within this climate of potential discouragement and anxiety that child protection workers be supported and empowered in their work. One

⁴ *Re H. (Minors)* (1996), A.C. 563 (H.L.), at p.592.

⁵ Regehr, C., Leslie, B., Howe, P. & Chau, S, *Stressors in Child Welfare Practice*, Faculty of Social work, University of Toronto, November 2, 2000.

⁶ *Ibid*, at p. 10.

way of achieving this goal is through professionalizing child protection work and encouraging those child protection workers with social work degrees to take the necessary steps to strengthen their professional identification and to represent themselves as social workers by becoming members of the Saskatchewan Association of Social Workers (SASW).

The Saskatchewan Association of Social Workers has much to offer child protection social workers, by virtue of its many and varied statutory purposes⁷:

- To establish, maintain and develop standards of knowledge, skill and competence among its members for the purpose of serving and protecting the public interest;
- To establish, maintain and develop standards of professional conduct among its members;
- To promote, develop and sponsor activities appropriate to the strengthening of and unification of the social work profession;
- To provide a means by which the association through its members may take action on issues of social welfare;
- To edit and publish books, papers and journals and other forms of literature respecting social work in order to disseminate information to members of the association as well as to members of the public at large;
- To encourage specialized studies in social work among its members and to provide assistance and facilities for special studies and research; and
- To carry on any other activities related to the above.

BENEFITS OF SOCIAL WORKER PROFESSIONAL IDENTIFICATION FOR CHILD PROTECTION WORKERS

The benefits of social worker professional identification for child protection workers are as follows:

- It would assist in elevating respect and esteem for child protection work outside the social work profession. In this regard, social work has not always been externally viewed as an accomplished and valued profession. This may, in part, be attributable to the profession's historical origins, which are rooted in charity work, and its focus on assisting, and advocating on behalf of, the most vulnerable and dispossessed groups in society. Public education and communication strategies could be used through the SASW to address these misconceptions.

⁷ *The Social Workers Act*, S.S. 1993, as amended, c.S-52.1, s. 4.

- It would assist in elevating respect and esteem for child protection work within the social work profession itself. Even among other social workers, child protection work is often misunderstood and is sometimes perceived as the least important or prestigious form of social work. This form of “lateral disrespect” towards child protection workers within the social work profession is alarming in its elitism and needs to be addressed. Once again, public education and communication strategies through the SASW could be used to rebut these myths. As well, membership in the SASW, and the attendant networking with fellow social workers, could be used as an opportunity to discuss the nature and importance of child protection work.
- It would enable child protection social workers to identify for clients, other professional groups and the public at large that they are “social workers” specializing in child protection work, notwithstanding that the job or position title has been reduced to that of a “child protection worker”. This is important, as no person other than a member of the SASW is permitted to “engage in the practice of social work by using the title ‘social worker’”⁸. This “profession nullification” of child protection work has sometimes occurred for the wrong reasons – such as the unwillingness or resistance of employers to pay the required membership fees. This change of job title - without the accompanying professional identification - strikes at the heart of the credibility of the social work profession, diminishes its status and has the potential to set off inadvertent implications, such as reduced weight being accorded a child protection worker’s “expert” testimony before a court or tribunal. In its submission to the Ontario Provincial Government as part of the 5-year review of that province’s social work legislation, the Ontario Association of Social Workers (OASW) expressed concern regarding the same phenomenon in the following terms:

“ Additionally, the change in job titles has reduced the credibility of social work testimony within the courts since individuals with academic qualifications in social work, who are not registered ...cannot call themselves social workers or hold themselves out as social workers... the weight of their testimony as an expert witness [being] seriously diminished. Most importantly, social work is the leading discipline for practice and scholarship in the child welfare field, and the scope of practice of social work encompasses the breadth of expertise required to ensure child protection. This includes assessment, diagnosis, treatment and evaluation of individual, interpersonal and societal problems to achieve optimal

⁸ *The Social Workers Act*, S.S. 1993, as amended, c.S-52.1, s. 24.

psychosocial and social functioning for the child and his or her family.

... Given the vital role that government plays in protecting at-risk children through child welfare ... and the criminal justice system, tolerance of the practice of changing job titles sends a troubling message that the harms from abuse, neglect and family disruption are less significant than harms arising from a health condition or impairment, or that children and families who are disenfranchised do not need the same level of protection afforded other members of the public. It is inconceivable that other regulated professionals such as nurses, doctors, physiotherapists, lawyers or teachers would be permitted to provide services without membership in their professions' regulatory body. Indeed, the Child and Family Services Act exists to codify our responsibility to ensure the well-being of children who are more vulnerable than adult members of society".⁹

- It would provide some significant protection to child protection social workers against a successful criminal prosecution or a finding of professional negligence (which could have serious reputational implications, even in those circumstances where the "good faith" defence under *The Child and Family Services Act*¹⁰ proves ultimately to protect the Department, agency and/or social worker). This is because child protection social workers, who act according to accepted standards of practice, as endorsed by the Saskatchewan Association of Social Workers, in addition to acting in compliance with legislation, government policy and in good faith at all times, will be better protected against a determination of criminal culpability or civil negligence.¹¹

- It would enable child protection social workers to stay current with leading developments in their field by attending professional development conferences and seminars and receiving information in SASW Newsletters. They would also benefit from the exchange of ideas and information with social worker colleagues. In addition to obtaining new information directly related to their area of practice, they would learn about other areas of social work practice. These

⁹ Ontario Association of Social Workers (OASW), *Response to Discussion Paper on Review of Social Work and Social Service Work Act*, (March 2005).

¹⁰ *The Child and Family Services Act*, S.S. 1989-90, as amended, c. C-7.2, s. 79.

¹¹ See Bernstein, M., Regehr, C. and Kanani, K., *Liability for Child Welfare Workers: Weighing the Risks*, in *Canadian Child Welfare Law: Children, Families and the State* (ed. Bala, N. et al.), Thomson Educational Publishing, Inc.: Toronto), 2004. A shorter version of the article appears in *OACAS Journal*, April 2002, Vol. 46, No. 1 (www.oacas.org).

professional development opportunities could also fortify their status as expert witnesses when giving testimony or deposing affidavits.

- It would enable child protection social workers to obtain ethical advice and direction from an Association that promotes all the ethical and professional standards of social work. In particular, there may be occasions where a child protection social worker is questioning an action that he or she is being asked to carry out, having regard to the safety, protection or best interests of an individual child, or it may be that a worker is questioning whether a supervisor is giving excessive weight to the parent's needs and interests over and above the best interests of the individual child. In such circumstances, it is extremely helpful to be able to turn to a regulatory Association for impartial ethical direction. In this regard, the SASW has adopted the 2005 Code of Ethics of the Canadian Association of Social Workers, which provides as follows:

"...Ethical decision-making in a given situation will involve the informed judgement of the individual social worker. Instances may arise when social workers' ethical obligations conflict with agency policies, or relevant laws or regulations. When such conflicts occur, social workers shall make a responsible effort to resolve the conflicts in a manner that is consistent with the values and principles expressed in this Code of Ethics. If a reasonable resolution of the conflict does not appear possible, social workers shall seek appropriate consultation before making a decision. This may involve consultation with an ethics committee, a regulatory body, a knowledgeable colleague, supervisor or legal counsel."¹²

- It would enable child protection social workers to obtain the support of the social work profession outside of their work units and to take pride in their social work identity. This could lead to networking activities with social workers who are specializing or generalizing in other areas of social work, so that their peer groups would not be limited to their immediate colleagues within the Department of Community Resources and within the child welfare sector. Over time, it is likely that commonalities of values and practices would be identified and newfound respect for child protection work and diversity of social work practice would be generated.
- It would enable child protection social workers to have a direct voice in shaping future directions for the profession of social work and the activities, continuing educational opportunities and advocacy of the

¹² Canadian Association of Social Workers (CASW) *Code of Ethics 2005*, at p. 3.

SASW. Members of the SASW can likewise volunteer to serve on different committees and participate at different educational events.

OVERCOMING RESISTANCE

If at least some of these benefits could be derived from maintaining one's social work identification within the field of child protection work, what then what are the barriers to membership and to assuming this sense of professional pride? A non-exhaustive list of barriers would include the following:

- Many child protection workers do not have a clear understanding of the role of the SASW and what it has to offer and thus may be questioning what they would be obtaining for their membership fees. The website of the SASW is full of rich information as to the "value added" by membership and can be found at www.sasw.ca.
- Some child protection workers with social work degrees may be concerned about the cost of membership. While this may have been a real concern historically, most Government Departments, including the Department of Community Resources, are prepared, when requested, to reimburse registering social workers for virtually the full amount of the membership fees.
- Some child protection workers may feel that they are more concerned about individual benefits, rather than any "public interest" considerations. This, however, is short-sighted, as it is important to take a larger view of the serious and legitimate public interest in ensuring that child protection services are delivered by competent and well-trained child protection social workers.
- Some child protection workers with social work degrees may feel that their union is charged with the responsibility of representing their interests and that they do not need to become members of the SASW. In this regard, it is important to delineate between workplace equity issues, on the one hand, and the ethics, standards of practice and quality assurance concerns of the social work profession, on the other.
- Some child protection workers with social work degrees may have issues or concerns with a school of social work and may mistakenly see the SASW as being an extension of, or associated with, their school of social work.
- Some child protection workers may see the SASW as simply a complaints body and do not see why they should pay a fee to register to have complaints brought against them, particularly when complaints may also be made against them to the Department of Community

Resources, thus exposing them to “double jeopardy”. In this regard, good social work practice will generally provide child protection social workers with the best protection against disciplinary sanctions and protocols could be developed between the SASW and the Department of Community Resources to avoid concurrent complaints review procedures. As well, mechanisms can be developed to support the screening out of frivolous, vexatious and bad faith complaints. In a report I authored on behalf of the Ontario Association of Children’s Aid Societies (OACAS) in response to that province’s 5 year review of its social work legislation, we made a number of recommendations in the area of complaints resolution.¹³

- Some child protection workers may feel that there is too much social worker elitism and they do not want to be disparaged by their colleagues, who are engaged in other social work practice areas. However, it is important to remember that misconceptions can be addressed and negative attitudes can be changed through constructive dialogue and direct professional interaction.
- Some child protection workers may feel that the advocacy and/or educational directions do not support their needs. It is axiomatic that we cannot change what we cannot influence and it is only through direct participation in the work of the SASW that child protection learning opportunities and advocacy will take on a stronger presence.

CONCLUSION

The Preamble to the Canadian Association of Social Workers 2005 Code of Ethics describes the enormous and exciting capacity of social workers to make a positive difference in the lives of their clients and the communities in which they serve:

“The social work profession is dedicated to the welfare and self-realization of all people; the development of and disciplined use of scientific and professional knowledge; the development of resources and skills to meet individual, group, national and international changing needs and aspirations; and the achievement of social justice for all. The profession has a particular interest in the needs and empowerment of people who are vulnerable, oppressed, and/or living in poverty. Social workers are committed to human rights as enshrined in Canadian law, as well as in

¹³ Ontario Association of Children’s Aid Societies (OACAS), *Response to Discussion Paper on Review of Social Work and Social Service Work Act*, (March 2005).

*international conventions on human rights created or supported by the United Nations”.*¹⁴

It is important that child protection social workers develop the capacity to see the “big picture”, and see past the ideological cycles and institutional limitations of child welfare work, while remaining empowered to think independently and creatively and maintaining the fundamental values of the social work profession. Membership in the SASW can go a long way in achieving these goals.

In his recent report on the British Columbia Children and Youth Review, the Honourable Ted Hughes commented on the cycle of ideological shifts in the child welfare system in the following terms:

*“I hope that some of the recommendations in this report can help to achieve a balance so that the pendulum can return to equilibrium... Government has long played a role in protecting children who are at risk for any reason, but has always struggled to find the right balance between respecting families’ autonomy and privacy on the one hand, and intervening to protect vulnerable children on the other.”*¹⁵

Judy Finlay, the Chief Advocate of the Office of Child and Family Service Advocacy in Ontario, has also provided a caveat concerning the institutional limitations of child welfare work:

*“...In some ways, social workers are at risk of becoming agents of the state in their work in child welfare... It is important to be cognizant of this development, so as not to suppress the profession’s ability to exert influence in a proactive way on behalf of clients and the community-at-large. We should never lose sight of who the client is, as we provide service in the context of large bureaucracies.”*¹⁶

It is within this larger context of social work and social justice that child protection workers can draw from the strengths of established supervisory and institutional

¹⁴ Canadian Association of Social Workers (CASW) *Code of Ethics 2005*, at p. 3.

¹⁵ Hughes, Ted (Hon.), *B.C. Children and Youth Review: An Independent Review of B.C.’s Child Protection System*, April 7, 2006, at pages 4,5.

¹⁶ Finlay, Judy, *Profiles of Social Work Leaders* (February 2004), www.oasw.org. See also: Bernstein, M., Regehr, C. and Kanani, K., *Liability for Child Welfare Workers: Weighing the Risks*, in *Canadian Child Welfare Law: Children, Families and the State* (ed. Bala, N. et al.), Thomson Educational Publishing, Inc.: Toronto, 2004, where the Coroner’s Jury in the Jordan Heikamp Inquest recommended, among other things, that “It should be made clear to all Child Protection Workers and their Child Protection Supervisors that their client is the child in need of protection, not the parent or the family” and that “All Children’s Aid Societies should adopt a critical role as well as a supportive role for their social workers.” A shorter version of the article appears in *OACAS Journal*, April 2002, Vol. 46, No. 1 (www.oacas.org) and in *Canadian Social Work*, Winter 2001, Volume 3, No. 2.

structures, but yet be empowered, through further consultation, networking and association membership, to challenge constructively those decisions that create ethical dilemmas by leaving vulnerable clients at risk, whether within or outside of government care.¹⁷

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¹⁷ The Children's Advocate Office is also available to front-line child protection workers, who may wish to make a referral, so that we can, in appropriate cases, advocate on behalf of those vulnerable children and young persons whose safety and protection ought not to be jeopardized.