



Complicating Permanency Planning:

A Response to the Ontario Government's Child Welfare Change Announcement

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Who We Are:

The Collective of Child Welfare Survivors (“CCWS”) is a grassroots organization that provides various supports primarily for child welfare survivors between the ages 15-25 years old, particularly Black, Indigenous, and racialized individuals. However, we also offer support for individuals who fall outside of this focus, including for families/caregivers.

CCWS currently works in partnership with the Black Legal Action Centre (“BLAC”) and other critical partners related to the child welfare experience. CCWS’ main pillars are systemic organizing, community development, and one-on-one individual intervention/advocacy. We ground the work we do in the principles of critical youth-centering, decolonization, and addressing anti-Black racism. Most persons seeking support (“PSS”) are Black, Indigenous, and racialized people.

Our mission at CCWS is to create and implement an organization that addresses and rethinks child welfare and care for child welfare survivors and families. It is our goal to create spaces for child welfare survivors to develop themselves and their relations beyond the various ways that child welfare survivors get blamed, pathologized, and placed in institutions. Ultimately, it is our goal to think and practice beyond what’s currently decided as practice for child welfare.

Introduction

In July 2020, the Ontario government announced that they would be making extensive changes to child welfare in Ontario. One significant aspect of the change is permanency planning, where the provincial government intends to achieve better outcomes with respect to permanency planning.

In the fall of 2021, the Ontario government began their public consultations with respect to permanency planning. After attending one of the public consultation settings, CCWS believes it is incumbent upon us to intervene on the process and discourse emanating in and from these consultations.

This position paper is our attempt to complicate how we understand permanency planning, as well as an attempt to disrupt the cyclical nature in which Ontario’s child welfare survivors are asked the same questions multiple times to no substantive and transformative change—even when the provincial government attests that they will actualize the results of public consultations. At the centre of our position paper are the interests of child welfare survivors often left at the periphery of these processes, particularly Black, Indigenous, and racialized child welfare survivors in the multiple ways we experience child welfare. It is our hope that through this position paper, we can approach child welfare survivors with a sense of radical ethics and care.

The Announcement & Public Consultations

From the outset, we are concerned about the genuine ability and desire for the provincial government to affect transformative and necessary changes related to child welfare, and to honour the input provided in the public consultations.

It appears to be quite contradictory to repeal the *Provincial Advocate for Children and Youth Act, 2007* in November 2018 to effectively close the Office of the Ontario Child Advocate (“OCA”), while recently announcing their intention to make changes in child welfare and engage in public consultations.

While we maintain our critiques of OCA as it was then run by Irwin Elman, one would think that OCA would have been the perfect vehicle for public consultations on the needed changes for child welfare. Given the purported—but not always actualized—role of OCA as an advocacy unit, one would also think that OCA would provide important insight and methods to which permanency planning could be better implemented.

Therefore, it is difficult for us to ignore the juxtaposition between the Ontario government’s announcements and process with respect to these changes, and the significant detrimental impact to children, youth, and child welfare survivors in this province when the government closed OCA.

We also have concerns about the public consultations and the kinds of data excavated from child welfare survivors, families, and community members—again. At first glance, the Ministry of Children, Community, and Social Services’ method for their public consultations was unclear. It was then announced that certain community organizations involved in child welfare would lead some of these public consultations. However, there was still no clarity on the kinds of questions that would be asked, and if there would be other avenues of providing input.

We are concerned that the conditions of COVID-19 coupled with a consistent issue of governmental public consultations that do not effectively understand and respond to the experiences of our constituency mean many are pushed aside for the experiences of those child welfare survivors, families, and community members who are considered easy to work with by the Ontario government.

We are also concerned with the quality of the public consultations based on our own experience with them. As shown below, the Ontario government and Ontario Association for Children’s Aid

Societies (“OACAS”) describe many trajectories within permanency planning. However, most questions were specifically about adoption as one of these trajectories.

In these questions were a consistent desire to articulate adoption as THE end goal of permanency planning, rather than one of many options that need serious and substantive overhaul. These questions were devoid of a critical understanding of adoption and the many histories of violence experienced in adoption.

While we have serious concern over the reproduction of public consultations that essentially ask the same/similar questions, by focusing on adoption the public consultations do not take into account—nor ascertain data—related to other sites of permanency planning.

In our attendance, we also found the facilitators described a desire to be grounded in equity, diversity, and inclusion but when asked what that meant in relation to child welfare the facilitators could not provide an answer. We expected the facilitators would show particular care in discussing adoption given the histories of violence enacted on Indigenous Peoples that are well documented, however there was little genuine engagement with the matter to complicate understandings of adoption. There was also little focus on antiblack racism, despite the government announcing funds to the *One Vision, One Voice* project, where we would expect the facilitators to work alongside that project to address antiblackness in permanency planning and adoption.

Given our personal histories of working in child welfare-related organizations, we also want to direct attention to the fact that we know many of the actors involved with these consultations. These are individuals who know—or ought to know—what is the content of our position paper. They are individuals who worked in and with the Office of the Ontario Child Advocate, engaged in research related to child welfare, and/or acclaim solidarity with Black and Indigenous Peoples. Our concern is that individual notoriety is driving these public consultations, where child welfare survivors, families, and community members are unaware that these notorious and publicly applauded individuals seem to ignore relevant information in order to work alongside the Ontario government on what appears to be a cyclical venture.

What is Permanency Planning?

The Ontario government and OACAS define permanency planning as, “...a word used in child welfare to suggest stability. For children and youth who are not safe living in their home of origin, permanency provides an enduring family relationship that is safe and meant to last a

lifetime, the legal rights and social status of full family membership, significant community connections, and the resources for physical, social, cognitive, cultural, and spiritual well-being.”¹

They go on to describe permanency planning as, “...an enduring family relationship that is safe and meant to last a lifetime; offers the legal rights and social status of full family membership; the child or youth has a sense of belonging and affiliation to a family/extended family with significant community connections and provides for physical, emotional, social, cognitive, and spiritual well-being.”²

To implement permanency planning, there are five placement options that a child protection agency can choose from: kinship service, kinship care, customary care, legal custody, and adoption.³ Transition into adulthood is considered another option, however transitioning into adulthood is not really a placement option, it is a fact of life if child welfare survivors live into adulthood.

Kinship service refers to individuals who have a relationship to the child/youth.⁴ This relationship does not have to be based on biology, rather it is about a strong social connection.⁵ A child/youth can be placed in kinship service where they are placed in the home of this kind but do not have the “in-care” status.⁶ Kinship care is similar to kinship service, however the status “in-care” accompanies the placement.⁷

Customary care is specific to First Nation, Métis, and Inuit (FNMI) children/youth who are placed in such a way to honour First Nation, Métis, and Inuit Peoples’ communal and family structures that focus on the collective responsibility towards children and youth.⁸

Legal custody refers to when a court through the *Child, Youth, and Family Services Act, 2017* (“*CYFSA*”) determines a child is in need of protection in the custody of a relative or community member.⁹ This can be an extended family member, community member, or foster parent legally gaining guardianship of a child.¹⁰ What is distinct about legal custody is the child maintains their

¹ Ontario Association of Children’s Aid Societies, “Permanency” (2022), online: <www.oacas.org/childrens-aid-child-protection/permanency/>.

² *Ibid.*

³ *Ibid.*

⁴ *Ibid.*

⁵ *Ibid.*

⁶ *Ibid.*

⁷ *Ibid.*

⁸ *Ibid.*

⁹ *Ibid.*

¹⁰ *Ibid.*

name, contact with family, and rights of inheritance.¹¹ Finally, adoption is the legal process that places a child permanently with a family different from their home of origin.¹²

Therefore, it appears that permanency planning refers to a *quality* of child welfare placement, where there is a level of stability for the child welfare survivor in the ways described above and in the multitude of sites available for child protection agencies to choose from.

However, to monitor permanency planning OACAS does not focus on the quality of child welfare placement. As seen in the images below taken directly from OACAS' reporting, OACAS

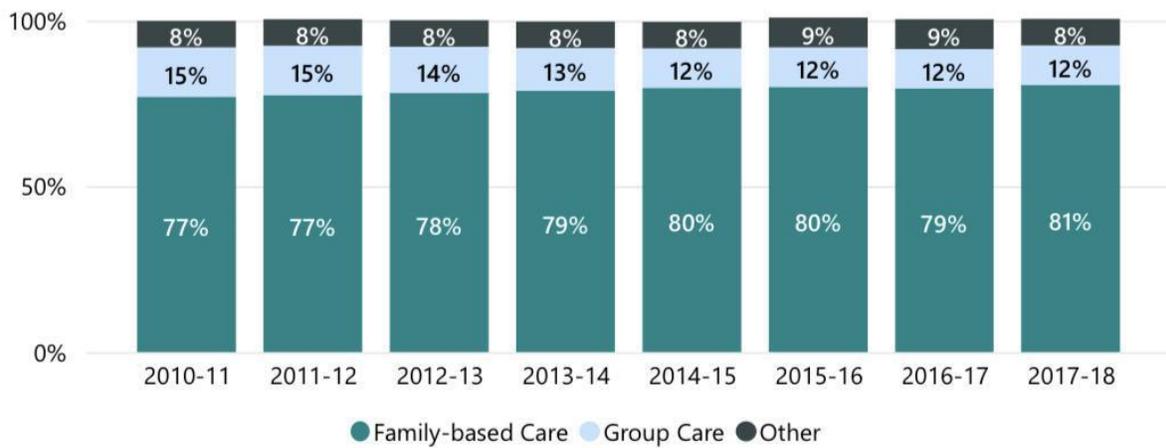
¹¹ *Ibid.*

¹² *Ibid.*

uses performance indicators which focus on the number of days a child/youth spends in child welfare, and the length of time it took to achieve permanency planning.¹³

Looking at this data, it is evident there is a contradiction between the definition and reporting of permanency planning. This data provides little insight into the quality of the relationships—which is the underpinning to permanency planning—but is the data both the government and OACAS rely on to make claims about the state of permanency planning.

The Days of Care by Placement Type



RESULTS

The majority (i.e., 77-81%) of days of care provided are family-based in each of the years under review.

ABOUT THE DATA

These data are compiled and analyzed by the Ontario Association of Children’s Aid Societies through the Ministry Quarterly Reports.

“Other” includes days of care provided for young people who are in care but living independently; or days of care provided through institutions such as hospitals, children’s mental health centers or youth justice facilities.

** Please note that percentages are rounded and may not add up to 100 per cent.*

The Days of Care by Placement Type

Year	Family-based Care	Group Care	Other
2010-11	77%	15%	8%
2011-12	77%	15%	8%
2012-13	78%	14%	8%
2013-14	79%	13%	8%
2014-15	80%	12%	8%
2015-16	80%	12%	9%
2016-17	79%	12%	9%
2017-18	81%	12%	8%

It is important to consider this when a permanent placement can result in enduring violence and harm for the child/youth, meanwhile the government uses basic performance indicators to justify policy decisions that do not reflect the quality of child welfare placement. Therefore, the rest of this position paper summarizes the plethora of reports and literature which substantiate a severely concerning quality of child welfare placement in Ontario's child welfare system.

Repetitious Research

As stated earlier, research on child welfare in Ontario seems to be stuck in a deadlock of circulating the same data, concerns, and recommendations across decades. As we provide a brief summary of the extensive research conducted on child welfare, particularly in Ontario, we want to be clear that these are only some of the reports that participate in this recirculation.

Some of the reports relevant to this position paper are listed below in order of their publication date:

- Office of the Ontario Child Advocate (formerly Office of the Child and Family Service Advocacy), *Voices from Within: Youth Speak Out*, (April 1998).
- Office of the Ontario Child Advocate, *My Real Life Book: Report from the Youth Leaving Care Hearings*, (May 2012).
- Office of the Ontario Child Advocate, *Blueprint for Fundamental Change to Ontario's Child Welfare System: Final Report of the Youth Leaving Care Working Group*, (January 2013).
- Office of the Ontario Child Advocate, *Children's Rights Matter to Us: Findings from the First Annual Listening Tour of the Ontario Provincial Advocate for Children and Youth*, (October 2015).
- Office of the Ontario Child Advocate, *Searching for Home: Reimagining Residential Care*, (2016).
- Office of the Ontario Child Advocate, *We Have Something to Say: Young People and their Families Speak Out About Special Needs and Change*, (May 2016).
- Office of the Ontario Child Advocate, *Envisioning Better Care for Youth: Our Input into the Blueprint*, (June 2017).

We specifically chose reports by the Office of the Ontario Child Advocate given the amount of the reports which overwhelmingly say the same thing in different ways. This does not include the substantial amount of other reports and research related to the quality of Ontario's child welfare system. Also, many of those involved in these reports are currently involved with facilitating the public consultations or working with the Ministry. It is also worth noting that some of these reports were drafted in partnership with the Ministry.

These are reports that provide some insight into the quality of child welfare placement, which includes those sites found in permanency planning. It is not the task of this position paper to repeat what is already in those reports. However, we want to direct attention to the themes in these reports. Specifically, across almost all of these reports are four themes repeatedly used to articulate the quality of child welfare placements—some of which include the sites of permanency planning. As will be shown in some updated reporting, this means the same themes span across at least 25 years of researching the same issue: permanency planning.

The Office of the Ontario Child Advocate continuously used these four themes when discussing the quality of child welfare placements in Ontario:

1. Vulnerability to Various Forms of Violence;
2. Isolation from Community & Relationships;
3. Unpredictability of Care & Placement;
4. Outcomes of Placement & Aging-Out.

In addressing these themes, child welfare survivors repeatedly gave the same recommendations revolving around belonging, safety, and stability—and their absence in Ontario’s child welfare system. Of course, there are some differences across these reports, but ultimately they share the same content and results. In fact, the same participants can be found across the reports.

There were also several reports by the Office of the Ontario Child Advocate which addressed the experiences of Indigenous child welfare survivors. Some of the above reports overlapped in naming those experiences, ones which spoke to the ongoing white supremacist settler coloniality in Ontario’s child welfare system.

Despite instances of antiblackness directly named by participants in these reports, the Office of the Ontario Child Advocate predominantly left Black child welfare survivors out of any specificity in the Office’s reporting. Despite our overrepresentation in child welfare and significant presence on their project, Black child welfare survivors’ experiences were folded and flattened into the experiences of our non-Black counterparts—we were once again disappeared.

However, this does not mean that public consultations are needed in order to ascertain the quality of child welfare placements and permanency planning for Black and Indigenous child welfare survivors. Including the reports by the Office of the Ontario Child Advocate, there are the *Truth and Reconciliation Commission* reports which are thorough in articulating the experiences of Indigenous Peoples in child welfare, and provide specific and necessary recommendations. There are the *One Vision, One Voice* reports which describe the experiences of Black children, youth,

and families who interact with Ontario's child welfare survivors, and they too provide recommendations.

Across these reports are the specific ways in which Black and Indigenous child welfare survivors experience overrepresentation, multiple forms of violence which includes antiblack and/or anti-Indigenous racism, trajectories into other carceral systems (criminal punishment systems, psychiatric systems, welfare supports), and deep instability in and due to Ontario's child welfare system.

There is also a recent source which provides insight into the current quality of child welfare placements and permanency planning in Ontario. For example, the Office of the Ombudsman of Ontario *2020/2021 Annual Report* states there were 959 complaints and inquiries about children's aid societies. They report, "Among the most common issues raised with us by young people were **concerns about their placements, issues related to their culture or identity, being physically restrained or assaulted (by staff or peers), and wanting to have more or less access to their parents.**"

What this research shows is the poor, but enduring, quality of child welfare that has a particular impact on Black, Indigenous, and racialized child welfare survivors, families, and communities. Permanency planning does not alleviate these conditions that lead to severe lack and harm for child welfare survivors, including death. In fact, permanency planning can, and does, result in child welfare survivors being placed in unsafe and unstable environments because the performance indicators used by OACAS does not include an inquiry into the quality of these permanency placements.

Adoption, Adoption Breakdowns, and Safety

As we understand it, the public consultations had a particular focus on adoption as the end point of permanency planning. We have many concerns about this, some which relate to our previously stated issues of repeating the "research wheel." These concerns are compounded by the reality that Black, Indigenous, and racialized children and youth are overrepresented in Ontario's child welfare system, and more likely to be marked by Crown Ward status. Therefore, when we think about who these potential adoptees are, we have to consider race and ethnicity (among many other considerations).

For this reason, we raise other concerns as individuals who experienced racial displacement through adoption and the kinds of violences that occur in these placements. We use the term *racial displacement* rather than "transracial" because the term "transracial" implies an impossibility. In our refusal of the term "transracial" we understand it to mean the adoption of

Black, Indigenous, and racialized children and youth into white families, an assumption which is fair in light of its reality. We refuse the term “transracial” because Black, Indigenous, and racialized children and youth cannot fully cross into the white racial family. In many ways, the racial other is always that–the other.

It is the racial other who is more likely to be blamed for any conflicts that arise, and if the adoption breaks down, it is the racial other who is removed. These realities and possibilities mean that “transracial” is an impossible suggestion that ignores how antiblackness, white supremacy, and settler colonialism operate within these homes and family structures.

Positioning adoption as a golden ticket ignores the ongoing histories of adoption as a site of violence, harm, and death. Governments in Canada used adoption as a settler colonial white supremacist genocidal tactic against Indigenous Peoples to Turtle Island, and continue to do so. There are multiple reports on the harm and violence Indigenous Peoples to Turtle Island experienced historically and contemporarily in adoption, including being killed at the hands of those they were told to call parents.

Research shows that Black children and youth are the least preferred by white parents, and there are also multiple instances where white parents harm and kill Black adoptees.¹⁴ There is the case in the United States, when Sarah and Jeniffer Hunt murdered their six Black adopted children after multiple neglect and abuse reports about the family to child protection.¹⁵ There was James Corrigan Clay, a pastor from the United States who adopted a 17-year-old Haitian girl whom he then sexually abused.¹⁶ There was also a case of white mother who medically abused a Black girl she adopted by subjecting her to over 500 unnecessary medical treatments.¹⁷ In Montreal, a former psychoeducator named Sylvian Villemaire internationally adopted an African girl whom he then sexually abused.¹⁸

These instances also reflect serious concerns related to international adoptions and the kinds of violences and harms international adoptees experience, particularly for those who are Black,

¹⁴ Smith, D. T., & Juarez, B. G., “Race Lessons in Black and White: How White Adoptive Parents Socialize Black Adoptees in Predominantly White Communities” (2015) *Adoption Quarterly*, 18:2 at 108-137.

¹⁵ Daniel Victor, “Hart Family Parents Killed 6 children in Murder-Suicide, Jury Determines” *New York Times* (5 April 2019) online: <www.nytimes.com>.

¹⁶ Widlore Merancourt, “James Corrigan Clay, an American pastor sexually abused a child he adopted in Haiti” *MacLean’s* (20 May 2021) online: <www.mcleans.ca>.

¹⁷ Annabel Grossman, “Mother is charged with 'medical child abuse' for subjecting daughter age six to 500 treatments - including a feeding tube and wheelchair - for a neurological disorder she never had” *Daily Mail* (30 May 2021) online: <www.dailymail.co.uk>.

¹⁸ Amy Luft & Matt Gilmour, “Montreal man sentenced to 18 years for buying African girl to use as sex slave” *CTV News Montreal* (18 August 2021) online: <www.montreal.ctvnews.ca>.

Indigenous, and racialized. These are only the instances that we know about, which is another part of the issue of using adoption for permanency planning.

In Ontario, there are no mechanisms that track adoption breakdowns and harm and violence that happens specifically in the context of child protection and adoption. This leaves Black, Indigenous, and racialized adoptees in a particularly vulnerable position, because we can experience an adoption breakdown as youth and young adults and then experience the very conditions child welfare survivors experience in the aging-out process. We have no specific remedy in this context because the state did not consider a response to this issue because they do not retain this kind of data.

It is also important to consider the emotional reality for adoptees and how this collides with the expectations and desires of adopting parents. For whatever reason, an adoptee is filling some kind of desire held by adopting parents. However, research shows that adoptees face a particular level of grief that non-adopted people struggle to understand, especially in the assumption that the adoption provides “a better life” for adoptees.¹⁹ We are easily construed as ungrateful for experiencing and displaying our grief. This grief compounds with the various forms of violence and harm we are likely to experience prior to adoption.

When considering how antiblackness, anti-Indigenous racism, and racism function, this can place Black, Indigenous, and racialized children and youth in the position of acting as emotional caretakers for white parents in our attempt to maintain stability—less we become a “problem child” for the family.

We also want to point out that there is no welfare and social support for families who adoptees come from. Articulating adoption as an endpoint leaves these families in the wind to put themselves together after experiencing loss. This kind of grief can be crushing, and some of us who were able to find our families can attest to the turmoil and heartbreak child protection leaves behind in this context.

Conclusion

This position paper is our brief attempt to intervene in Ontario’s plan to supposedly transform child welfare. There are many more considerations to be had, but it is our hope that this was enough to make child welfare survivors, families, community members, and stakeholders take pause and ask serious questions about the public consultations. We hope for a critical stance in

¹⁹ David Brodzinsky & Evan Donaldson, “Children’s Understanding of Adoption: Development and Clinical Implications” (2011) *Am Psychological Association* 42:2 at 200–207.

regards to the potential long-term impacts of positioning adoption as some kind of golden ticket for child welfare survivors.

It may be of more significance that the Ontario government address the underlying conditions that cause children, youth, and families to interact with child welfare in this province, and a comprehensive and well-funded welfare state may be the place to start. Anything else is a band-aid solution which affects us the most.